LEGISLATIVE PROCESS

THE PREPARATION OF LEGISLATION

CHARACTERIZATION OF THE PROCESS

Law-making is one of the principal functions of the state. Legislation, along with policies, programs, budgeting and administration, is one of the fundamental elements of government.

In the general context of government, the legislative process is best perceived as a single continuum, extending from the formulation of a policy proposal requiring legislation, through the preparation of the necessary bill and the attendant regulations and other legal instruments, through the enactment and bringing into force of all of these, to their implementation and ultimately to their textual revision and policy review. For purposes of the Task Force's investigation, the preparation of legislation is understood to refer to the initial phase of this legislative process.

The branches of government most closely involved with this area of work are the Department of Justice and the Privy Council Office. The most visible product of their labours is the actual body of legislative texts which they make ready for approval: bills to be enacted, regulations and Orders-in-Council to be adopted. That is by no means the full extent of their activity, however. They also tender advice with regard to the composition of the government's legislative program. As well, they have an input from the policy, but not the political perspective into government decisions relating to the scheduling of the consideration of legislation by Parliament. On the basis of these parliamentary scheduling decisions, they also arrange the priority and urgency with which legislation is prepared.

PERCEPTIONS, BENEFITS AND DIFFICULTIES

The decisions discussed and the legislative texts which are drafted as a consequence lie at the crossroads of law, public administration and politics. This entire domain of public service and parliamentary activity constitutes an integral system. Yet, at present, the overall conceptual framework that would treat this process as a unified sequence of events, rather than as a series of individual and disjointed decisions, seems to be lacking. Perhaps for

this reason, there is little recognition of the singular importance of the legislative process either within government or among other groups in society. As the entire process is unknown, its introductory portion, during which legislation is prepared, is given even less attention.

The phases of the legislative process following preparation, namely enactment, implementation and review, are beyond the mandate of this study. It is worthy of note, however, that the procedure of enacting legislation was one of the topics recently examined by a Special Committee on the Reform of the House of Commons under the chairmanship of Mr. James McGrath, P.C., M.P. It is thus not only appropriate but also timely that the preparative aspect of the legislative process also be examined.

The legislative establishment has, during the past decades, made a significant contribution to the quality of democratic government in Canada. Initially, the drafting of legislation and regulations was undertaken by individual departments. More recently, a centralized office has been established to deal with each of these types of legal text. Together, they apply a standardized drafting technique, pay strict attention to the use of both official languages and have developed advanced systems for crafting a great volume of legislation. Canada can justly claim to have an extremely sophisticated method of preparing legislation.

As a result of the higher level of interest in other aspects of government, however, the organizational structure within which this function is carried out has not kept pace with advances in the law. From the managerial as well as institutional point of view, difficulties have been allowed to develop and to remain unattended. In the most succinct terms, the system of preparing legislation is staffed, funded and equipped to handle the lower edge of the spectrum of its workload. In the past few years, though, the demands for the legislative process' output have been consistently high and do not show any signs of abating.

In institutional terms also, the lack of central planning in the field of legislation has rendered possible the growth of layer upon layer of ad hoc development. Different aspects of the legislative process are now dealt with by a multitude of units in several departments.

The examination undertaken by the Task Force provides a suitable opportunity to take a close look at the organizational aspects of the preparation of legislation. For purposes of convenience, the proposals which follow have been grouped into three packages. Those dealing with management of the process could be introduced in the immediate future. The next group, dealing with information systems, could be dealt with in the short to medium term. Further study is needed before the last proposals, regarding institutional matters, can be implemented. That study should be undertaken within the short term, even if the results that emanate from it are put in place only in the medium to longer term.

REFORMS: THE MANAGERIAL PACKAGE

General Matters

The most pressing change to current practice which needs to be put in place is an increase in the number of drafters of statutes and regulations. During the past few years, in addition to the normal progression of the workload of these officials, several other factors have greatly increased the volume of their assignments. Firstly, enactment of the Charter has required the amendment of many laws. Major changes in several areas of law, such as transport, energy, consumer and corporate affairs, pension reform, and financial institutions, have also necessitated their services. The revision of statutes has been undertaken as well. More recently, a system of legislative committees has been added to the functioning of Parliament. These developments have all added to the burden of drafting services and are expected to continue to do so.

The situation is even more critical with respect to regulation, where the workload has grown exponentially during the last decade. Despite the deregulation of several spheres of economic activity, staffing in the Legislation Branch, the Tax Counsel Division, the Statute Revision Commission and especially the Privy Council Office has not kept pace with the demands imposed on these offices. An immediate increase in the number of drafters in each of these offices is required, in the view of the study team.

Simultaneously, it seems necessary, in the study team's view, to establish a system of tasking drafters that would make better use of human resources. To this end, the entire pool of drafters might be considered as a unified resource upon which the managers in charge of various functions could call to have them perform statute drafting, statute revision or regulatory work, according to fluctuating needs. The expertise required to deal with each of these functions is the same. Such a combination of professional skills is therefore possible. A parallel redeployment of all services ancillary to drafting and regulation revision work would also seem in order.

The relationship between each department sponsoring legislation or regulations, and the drafters of these texts is vital. Several measures could be taken to facilitiate its proper functioning. Departments could indicate to drafters the priority attached to each project, so that bills of a purely legal or technical nature could be prepared, as well as the more politically attractive ones. Such advice on prioritizing would nevertheless have to be superseded by the decisions Cabinet makes regarding the overall legislative program. Moreover, in the process of instructing drafters regarding bills of a difficult technical nature, use could be made of annexes in which the departmental legal services set out their proposals in the form of pre-bills, as a guide to the drafters. Also, in respect of both the drafting of statutes and the examination of regulations, drafters should, in the view of the study team, be encouraged to have a closer working relationship not only with the lawyers of the sponsoring department, but also with that department's policy staff.

As a result of the expansion and combination of the human resources available, further changes in procedure would become possible. In instances where new legislation is being readied for the consideration of Parliament, drafting teams could be constituted, charged with preparation not only of the bill, but also of the related regulations. Depending on the schedule of the House of Commons, in some cases such an approach might even enable Parliament to see a draft of the regulations that will eventually surround the law, while it deliberates on that subject matter.

Familiarity with the subject matter of a text of law is indispensable to achieve consistency in the drafting of the bill itself and of the amendments to it. It would therefore

be opportune to enable drafters to follow their files all the way through the legislative process. Once the actual drafting is complete, their role would not end with participation in the meeting of the Cabinet Committee on Legislation and House Planning at which these items are considered. They would also attend Parliament during important phases of the second reading debate. Most importantly, they would continue to assist the government throughout consideration of the bill by parliamentary committees.

The routine presence of the government's legislative drafters in Parliament would render useful a clarification of the division of functions between these officials and the respective Law Clerks of the House and the Senate. As no precise division of labour exists at present, many ad hoc practices are followed. In this context, the study team notes that Standing Order 93 of the House of Commons, which assigns the duty of drafting and printing legislation to "the Joint Law Clerks of the House", no longer conforms with current practice and should be considered for revision in the view of the study team.

There is one element critical to assuring that the reforms proposed here be successful and that the system of preparing legislation operate consistently. That is the establishment of clear legislative priorities by the government and their continuous communication to officials. This setting of priorities is itself often based on the policy advice of officials. There is thus a need for the closest cooperation and trust between officials and the political masters of the state apparatus. In this process of prioritizing, continued use of the Cabinet Committee on Legislation and House Planning and of its secretariat can only be beneficial.

Issues Specific to Certain Participants

Specific reference must be made here to legislation arising out of the budget. The preparation of this type of legislation is a particularly difficult exercise, given the complexity of Canada's tax laws. Even with this consideration in mind, the time between presentation of the budget and the introduction of the legislation required to put its provisions into effect has lengthened in recent years. To resolve this situation, the study team proposes modifications. First, that members of the Tax Counsel Division be allowed to begin drafting even before the day on

which the budget is presented. More importantly, once the Minister of Finance has made his or her presentation in the House, that the Tax Counsel Division be made the nucleus of a special drafting task force, using drafters made available to it out of the pool of professionals discussed previously. During preparation of the legislation emanating from the budget, this work would have priority over that on most other bills.

The role of the Statute Revision Commission must also be highlighted. The need to enable this body to publish a revision of the federal statutes within the shortest possible delay is patent. The study team suggests that it would be very useful if this revision were made available not only in bound form, but also in loose-leaf. To give full legal sanction to this latter version, amendments to the Statute Revision Act and the Canada Evidence Act would need to be promulgated. The commission would not only keep the statutes revised, but also arrange the revision and consolidation of the regulations and publish them in loose-leaf form as well.

REFORMS: THE INFORMATIONAL PACKAGE

Legislation is an area of practice which attracts few lawyers and is an aspect of public administration uncharted by most experts in that field. Its importance to the operation of the state is nevertheless demonstrable. An effort to increase the awareness of officials regarding this topic can thus only be beneficial. Under this rubric, the most urgently required educational program is that intended for government lawyers. While the Legislative Drafting Program of the University of Ottawa has graduated many drafting experts, that course is too lengthy for most departmental lawyers. For their benefit, a series of short programs is required in the view of the study team. Such teaching would be directed at providing the fundamental principles, rather than the precise techniques, of drafting. Additional seminars on the method of instructing drafters would also be appropriate.

In the study team's view, there is also a need for development of courses of a more general nature, aimed at officials otherwise involved in the legislative process as well as for the exempt staff of ministers or other officers of the state. The most appropriate forum for such courses would seem to be a politically neutral body, such as the University of Ottawa, the Parliamentary Centre or the

Institute for Research on Public Policy. Officials actually involved in the legislative process should, however, not only be involved in the teaching of such courses, but also in the preparation of materials, such as books, on the subject.

Investigation by the study team has shown that several provincial governments use federal legislation as a model for their own drafting, but are not adequately informed as to legislative developments in the federal sphere. To fill this void, the opportunity should be made available to the chief legislative counsel of each Canadian jurisdiction to receive copies of bills introduced, acts having received Royal Assent or Hansard, on a systematic basis.

REFORMS: THE INSTITUTIONAL PACKAGE

The Next Step

The managerial and informational reforms proposed above are designed to resolve only the current problems in the system of preparation of legislation. In the course of the study team's examination of this subject matter, it has become apparent, however, that a more long-term view of the system may also be called for. In this perspective, serious consideration of the possible need for additional reforms of an institutional nature should be undertaken. The purpose of such changes would be to modernize, rationalize and simplify the structures within which legislation is prepared.

The preparatory phase of the legislative process is primarily within the administrative jurisdiction of the Minister of Justice, while the enactment phase is the responsibility of the Government House Leader. The in-depth investigation of the system which is proposed here would serve to look at whether maintenance of this division is organizationally logical. Moreover, legislative texts are, according to constitutional practice, prepared at the bidding of the government, that is of Cabinet, rather than for one of its members in particular. Review of the existing structure might therefore show that reform would only be the institutional recognition of an administrative reality. A further topic for analysis is whether the present apportionment of responsibilities between ministers prevents the legislative function of the state from achieving the heightened profile that that element of government deserves.

The study team proposes that such an investigation take account of the above considerations and deal with the merits of concentrating ministerial responsibility for all phases of the legislative process in the hands of a single minister, presumably the Government House Leader. Such a reform would gather under one roof the diverse public service group involved in the preparation of legislation. A department of the type envisaged would not only encompass the lawyers dealing with statutes and regulations. It might also be the most appropriate home for the Office of Regulatory Reform, currently in the Treasury Board Secretariat. With a new mandate, this group could become an Office of Legislative Analysis, looking at the effects of combinations of legislative texts. This new department could also be the most convenient branch of government to assume responsibility for the Legislative Drafting Program of the University of Ottawa. With these resources the minister could do strategic planning for the entire process.

A study such as that proposed would show that a single departmental structure could clarify the lines of responsibility of public servants involved with legislation vis-à-vis Cabinet. It would also point out that the suggested department could protect the Minister of Justice from the possibility of being in situations where his interests with respect to the drafting of legislation conflict with those of his Cabinet colleagues.

The Long-Term Option

The extent to which responsibility for various aspects and phases of the legislative process is concentrated in the hands of the Government House Leader is also a proper subject for further consideration in the study proposed above. In the long term, it may be suitable for Canada to establish a completely unified department of government, forming part of the executive branch, to deal with all matters related to a completely unified legislative process. The inspiration for this scheme is the administrative side of the Conseil d'Etat of France, whose officials deal with the substance and form of statutes and regulations and also give advice regarding the appropriateness of each, from a policy perspective.

Establishment of a Council of State type of ministry would complete a long trend of historical development of institutions dealing with legislation. A department devoted exclusively to the management of the legislative process might, in the long run, also provide an appropriate counterpart to the roles already played by departments dedicated to the other fundamental aspects of government. The Privy Council Office fulfills this function in the policy coordination field, while the Treasury Board Secretariat plays a similar role in the areas of financial management and administration.

LEGISLATIVE DRAFTING PROGRAM
Department of Justice

OBJECTIVES

The drafting of legislation, regulations and other statutory instruments is one of the fundamental functions of the state. In this context, the prime objective of the legislative drafting program established at the University of Ottawa at the encouragement of the Department of Justice is to train legislative drafters for the benefit of that department.

AUTHORITY

This program is non-statutory. Authority for the operation derives from the general mandate of the Department of Justice and arises, in addition, from the responsibilities relating to the legislative system assigned to the department by the Canadian Bill of Rights, the Statutory Instruments Act and the Statute Revision Act.

DESCRIPTION

Originally established in English only in 1970, the course was viewed as a way to relieve a chronic shortage of drafters of legislation. In 1980, a French section was added to the program.

The course is part of the curriculum of the Faculty of Law of the University of Ottawa and is offered, in each official language, to a maximum of eight to 10 students a year. Of this number, four students in the English program and four in the French program are recipients of Department of Justice fellowships. The others are either supported by other agencies or governments or attend at their own expense.

The program is conducted at the graduate level and is open to persons called to a bar or to those who have obtained a degree from a recognized faculty of law. It is intended to train specialists in legislation and is therefore geared to offer drafting skills more advanced than those required for the preparation of private legal documents, such as contracts or wills.

The English language program consists of 370 hours of seminars and lecture courses as well as practical exercises and assignments dealing with legislative drafting, the legislative process, comprehension of legislation and legislation and Canadian federalism. In the French program, students follow the same curriculum with an additional 30 hours a year of teaching on syntax and stylistics. A student who takes these courses is eligible for a Diploma in Legislative Drafting. One who, in addition, does a thesis in the field of public law under the supervision of a member of the Faculty of Law of the University of Ottawa is also eligible for a Master's degree in law.

While the University of Ottawa sets the curriculum, the Department of Justice controls the selection of the director of the French and English sides of the program.

Since the inception of the program, 122 students have graduated from it. Of these, 47 are currently employed by the Department of Justice, another federal department or Parliament. Two others are former Justice employees. Twenty-seven work for provincial or territorial governments, 23 others work abroad; and four are currently involved in academic pursuits. The remaining 19 could not be traced.

BENEFICIARIES

Those who draw the most tangible benefit from the program are the eight to 10 students a year who take the course.

The legislative drafting program is also of great benefit to the federal government, since the largest proportion of the graduates work at the federal level. In this category, the principal beneficiary is the Department of Justice, while the Legislative Programming Branch, the Tax Legislation Unit and departmental legal services all absorb followers of the course. Other graduates are employed at the House of Commons, the Senate or in various other federal functions relating to legislation, such as the Aeronautics Act Task Force.

The provinces and territories also benefit from the program since a number of graduates of the course are part of their legislative drafting units. These jurisdictions also draw an indirect advantage from the program in the sense that their governments, on occasion, request federal assistance for their drafting needs. Such is the case at

present with Manitoba. Having graduates of the course ready to be lent out is an advantage to both levels of government in such circumstances.

EXPENDITURES

The expenditures incurred for this program consist mainly of the eight to 10 fellowships awarded to the students selected to attend the course, and their registration and tuition fees. There are also grants covering the salaries of a director-professor and a secretary for each language group.

The figures for the 1984/85 Academic Year are:

Fellowships	
8 x $10,250	$82,000
Registration and Tuition	
8 x $1500	$12,000
Salaries of Director-Professors	
2 x $25,540	$51,080
Salaries of Secretaries	
2 x $19,260	$38,520
TOTAL	$183,600

When the Department of Justice sends employees on this course, it continues to pay their salaries and covers their tuition expenses but does not offer them bursaries. In this way, the overall costs associated with the program are somewhat varied from year to year. Administration requires approximately one-tenth of one person-year.

OBSERVATIONS

The need for legislative drafters is constant and will continue as long as there are legislative bodies enacting laws. Legislative drafting is considered a highly-specialized branch of the legal profession. It is a difficult expertise to master, requiring a longer apprenticeship than several other forms of practice. While there is no substitute for that experience, graduate university training such as that provided by this course can serve as an invaluable boost to a drafter in the early stages of a career. On a larger scale, this type of course can assure the government agencies charged with drafting a reliable pool of talent from which to draw.

The University of Ottawa drafting program provides another significant benefit to federal authorities. It relieves senior drafters and managers from the very time-consuming task of having to provide on-the-job training to beginning drafters and it thus frees them for more productive duties.

This program is unique in several ways. At present, it is the only complete university program dealing with this subject matter. At Laval and Dalhousie, only partial programs exist. Within the Quebec Ministry of Justice, some thought has been given to an in-house training program to meet the specific drafting needs of a civil law jurisdiction. Were that program to be established, it would not conflict with the one discussed here. Quebec government officials and other Québec students would not disappear from the University of Ottawa program.

ASSESSMENT

This program is considered a necessity and a success by officials of the Department of Justice. It provides an answer, at a relatively low cost, to a very obvious need. The Internal Evaluation Directorate of the department has termed it "both essential and most rewarding".

The Treasury Board Secretariat has also praised the program which "provides an efficient mechanism for training a drafter in the rudiments of his trade". Its elimination would create a vacuum which would have to be filled, since the need for trained drafters would not disappear.

OPTIONS

The determining considerations in regard to the Legislative Drafting Program are the general need for it, its success as a method of training drafters and the relatively low cost of continuing it. The study team recommends to the Task Force that the government consider continued Department of Justice funding and support of this program.

CIVIL LAW/COMMON LAW - EXCHANGE PROGRAM
Department of Justice Canada

OBJECTIVES

The stated objectives of the program are to:

a. promote an understanding of the civil law system among common law students and of the common law system among civil law students;
b. promote bilingualism among lawyers; and
c. promote national unity and multiculturalism.

Officials from the Department of Justice indicate that the first of the above objectives is the highest priority.

AUTHORITY

This is a non-statutory program operated by the Department of Justice, Programs and Projects Administration Section. Authority for its operation derives from the yearly Appropriation Act. Most recently, this item was included under Vote No. 5 of Appropriation Act No. 2, 1985/86.

DESCRIPTION

Since 1973, the Department of Justice has sponsored a summer exchange program between civil and common law schools. Under the program, a number of second- and third-year common law students from across the country attend a seven-week course in French on the basic aspects of civil law at the University of Sherbrooke. An equal number of civil law students attend Dalhousie University to study common law in English. At the end of the seven-week period, both groups participate in a three-week comparative law program, held in Sherbrooke in 1985. Prior to 1985/86, sixty-eight students participated in the exchange. During 1985/86, only 48 students participated due to an across-the-board reduction in departmental spending.

Students who participate in the program must have some prior ability in the second official language. Applicants are screened by their universities and successful applications are referred to a national selection committee consisting of Department of Justice staff and professors from the participating law schools. The major criterion for

selection is academic performance in the law programs, with participants chosen from the top 50 per cent of their class. Participants each receive a scholarship of $1,500. In addition, the program funds their travel expenditures, lodging, food and incidentals, as well as their socio-cultural activities. The total average cost per student amounts to $5,000.

Primary administrative support is provided by the two universities, with the program paying the participating professors' and secretaries' salaries. It also funds the textbooks and other teaching materials. Further administrative support and coordination is provided by the Department of Justice.

A 1981 program evaluation conducted for the Department of Justice concluded that the program is well-administered, efficient and supported by Canadian law schools. It did, however, question whether the program was the best means of achieving each of its broad goals.

The 1983 Law and Learning report of the Consultative Group on Research and Education in Law praised the program and the department's efforts in achieving the goals. It encouraged other groups to emulate that approach.

The department's Bureau of Program Evaluation and Internal Audit in 1983 concluded negatively on the effectiveness of this approach, notwithstanding what is described as laudable objectives and low administrative costs. The evaluation concluded that the program had no demonstrable value to the department.

In its assessment, the Treasury Board Secretariat recommended that the program be abolished. No rationale for the recommendation was given.

The Duff-Rinfret Scholarship program provides funds to Canadian lawyers for graduate study in federal law at the Master's level. At the present time, there is no programmatic connection between the scholarship and exchange programs, although departmental staff have considered the possibility of utilizing the theses and other documents produced by graduates of the Duff-Rinfret program to facilitate meeting the objectives of increasing understanding of the civil and common law systems among lawyers.

The operation of language and multi-cultural programs is the responsibility of the Secretary of State. None of the programs of that department appears to overlap with the civil law/common law exchange program.

The Canadian law deans have expressed to the Department of Justice their interest in establishing a comparative civil and common law program. At present, no such program exists, although at three schools, it is possible to do combined studies in common and civil law in order to obtain twin law degrees. Limited teaching of the "other" system is available at five of the remaining 18 schools.

EXPENDITURES ($000)

	81/82	**82/83**	**83/84**	**84/85**	**85/86**
Salaries & Wages	38.8	29.0	31.3	33.1	34.8
Other O&M	.5	.5	.5	.5	.5
Contributions	264.8	309.0	340.4	328.8	234.6
TOTAL	303.6	338.0	372.2	362.4	269.9
PYs	0.6	0.6	0.6	0.6	0.6

The 30-per-cent budget reduction in 1985/86 resulted from a decrease in the number of students participating in the program from 68 to 48. The purpose of this decrease was to achieve expenditure reductions for the department.

Department of Justice administrative support is provided by a Programs and Projects Officer and secretary. Approximately 0.6 person-years can be ascribed to the program, consisting of 0.3 of the person-year of each.

BENEFICIARIES

The direct beneficiaries of the program are the 48 students who participate annually. Since 1973, approximately 680 students have benefited. It is assumed by those involved that the legal profession as a whole also benefits because of:

a. generally higher levels of knowledge of the two legal systems among a greater number of members of the profession; and

b. greater proficiency in both official languages and familiarity with both cultures among a greater number of members of the profession.

The development of comparative law course material by instructors is also seen to be of benefit because of the current lack of such material in the law schools.

The benefit of the program to the Government of Canada and, through it the population as a whole, is less clear. Statistics have not been kept on the career paths of participants. It is known that some are employed by the government, but a greater number have obtained positions as law clerks to judges and as professors in law schools.

OBSERVATIONS

Accepting the legitimacy of the objective of increasing knowledge of the two legal systems among lawyers generally, two questions must be addressed:

a. Is it appropriate to expend federal resources to achieve the stated objectives? and

b. If such expenditures are appropriate, is this the most effective and efficient means to achieve that objective?

With respect to the first question, it is clear that in the absence of federal expenditures, fewer lawyers would have an adequate level of knowledge of the "other" Canadian legal system. The value of this knowledge is difficult to quantify, but clearly there is some. Interprovincial trade and the mobility rights now guaranteed by the Charter necessitate increased interaction between the two legal systems. Familiarity with both does serve to facilitate the legal aspects of commerce and interaction between businesses and individuals between Quebec and the rest of Canada and supports federal objectives and responsibilities for national unity as well as trade and commerce.

The study team questions, however, the degree to which the exchange program, as it currently operates, meets its objectives. In addition, and while acknowledging that without federal government resources the program would probably not survive, the study team questions the need for the Department of Justice to exercise direct administrative responsibility for a program delivered through universities.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. The program, as currently constituted, does not reach a wide audience and seems to undertake functions beyond the mandate of the Department of Justice. One option is therefore to replace it with a transitional scheme leading to the establishment of new Centres of Comparative Law. This solution would not only focus the program into teaching of the "other" system, but would also make it available to a far greater number of students. Adoption of this option would include the following elements:

    a. retain the present program for 1986 only. Planning for the upcoming session is at an advanced stage and its immediate abolition would be disruptive;

    b. as of the 1987/88 academic year, establish on a transitional basis a new Program for Visiting Professors of Comparative Law;

    c. during this transitional phase, the department would publicize among the eligible law schools its long-term goal of increasing the number of institutions at which comparative law programs of study are established permanently. For this purpose, the law schools could use information gathered during the transitional phase regarding the demand for, and interest in, comparative law courses; and

    d. on the basis of that information, they would, with the consent of the department, select one civil law school and one common law school where these new programs would reside permanently.

    Under this plan, in each academic year, one common law professor would be sent to a civil law school and one civil law professor would be sent to a common law school. The Department of Justice would fund these movements to a maximum of $60,000 per professor, which would include both salary and moves. Each visiting professor would be required

to teach at least three courses per term. Two of these would be basic courses in the professor's own legal system, and the third would be comparative law.

The primary administration of this system would be entrusted to the Canadian law deans. The department could retain the right to set standards and supervise compliance. Any professor of an accredited law school would be entitled to participate in the programs. However, only those law schools which do not maintain programs of studies in both legal systems, would be entitled to take in visiting professors.

As the program in each of the two selected schools started up, the department's funding for each of the visiting professorships would be terminated and rolled over into each of the "settled" programs. From that point on, the funding would be even more effective, as it could be used for teaching and research, with no necessity to pay moving expenses.

2. Another option is outright termination of the program. This alternative is based on the notion that if the "marketplace of ideas" requires the education of a greater number of students in the two legal systems, universities will be able to provide them without governmental inducement or assistance.

OFFICE OF REGULATORY REFORM
Treasury Board Secretariat

OBJECTIVES

The Office of Regulatory Reform is a part of the Administrative Policy Branch of the Treasury Board Secretariat. Its primary functional goals, directed at benefiting the private sector, are to coordinate the reform of the regulatory process throughout the government and to reduce the regulatory burden on the Canadian economy. It also has a parallel goal of an informational nature aimed at the public sector, namely to inject into the operations of government the idea that regulation entails an economic cost.

AUTHORITY

The establishment of a group of officials to deal with the policy and procedural aspects of regulation-making is founded upon the government's general interest in improving the efficiency and effectiveness of its public administration. The decision to deal with this aspect of the legislative process in particular was made by executive order in 1979, in response to the then-increasing interest in regulatory reform and deregulation.

DESCRIPTION

Starting with the February 1978 First Ministers Conference on the Economy, the Government of Canada gave increased consideration to the effect on the national economy of unbridled regulation by its various departments and agencies. One of the measures undertaken was the establishment in October 1979 of a Task Force on Regulatory Reform.

In October 1980, Cabinet endorsed an 18-month regulatory reform work program which had as its aims the improvement of public administration through reform of the federal regulatory process and the reduction of the regulatory burden on the economy. Simultaneously, it established the Office of the Coordinator, Regulatory Reform (OCRR) in the Treasury Board Secretariat. In 1982, when the original program was supposed to terminate, the regulatory reform mandate was reconfirmed in an exchange of letters between the Prime Minister and the President of the Treasury

Board. OCRR was then transformed into the Office of Regulatory Reform (ORR) and made permanent.

The significant accomplishments of the OCRR in its early stages were the preparation of an omnibus bill to repeal obsolete federal statutes, the preparation of legislative amendments to reduce and rationalize federal records retention requirements, and general work toward improving private sector access to the regulatory process.

A significant practice initiated by OCRR and continued by ORR is the preparation of regulatory agendas. A regulatory agenda is a twice yearly annex to the Canada Gazette which consolidates notice of potential regulatory initiatives of those departments and agencies which are the most active producers of regulations. Regulatory agendas contain information on regulations intended to be made, regulatory policy reviews and analyses, regulatory program evaluation schedules and information on completed regulatory actions.

The ORR is also mandated to support the participation of public interest groups in the regulatory process. This area of activity is comparable in the regulatory field to the function of the Department of Justice in respect of the Charter-related court challenges program. It is not clear what action ORR has taken in this regard.

One of the ORR's principal activities is to work with the Socio-Economic Impact Analysis (SEIA) program. SEIA requires that departments carry out and publish detailed socio-economic analyses for proposed major federal regulations or regulatory amendments in the areas of health, safety and fairness.

The government's regulatory reform goals include a variety of other policies and practices intended to simplify regulatory activity and the economic effect of regulations.

BENEFICIARIES

While the tangible benefits of the ORR's work to date have been somewhat limited, its activities have provided a definite advantage to the regulated industries. The introduction of regulatory agendas, in particular, has given an early warning to various elements of the private sector of regulatory changes that are to be expected in their respective fields of endeavour.

The extent to which federal government officials have derived a benefit from the ORR's activities, in the sense of being sensitized to the economic cost and social effect of their regulatory activities, as was intended, is much less certain.

EXPENDITURES ($000)

The ORR staff, reconstituted as the study team on the Regulatory Program, analysed the office and provided the following figures.

	82/83	83/84	84/85	85/86
Salaries	189	277	408	520
O&M	155	210	187	157
TOTAL	344	487	595	677
PYs	5	7	10	10

OBSERVATIONS

The ORR program is scheduled for review at the end of 1985/86. The office's members have recommended that, in the absence of a regulatory reform policy requiring central coordination, the program be terminated in its present format.

ASSESSMENT

During the past few years, increasing attention has been paid to the twin topics of regulatory simplification and deregulation. Considering the enormous breadth of regulatory activity, no mass repeal of regulations can be envisaged, however, without inducing chaos in the federal legal system. In these circumstances, the existence of an office to monitor regulatory activity in some fashion is a necessity. After an initial surge of interest in the late 1970s and early 1980s, regulatory reform no longer seems to hold the interest of the government. The study team believes that is why the essential element to make the ORR function properly, a clear mandate, is at present missing.

The ORR is a prime example of an office established to carry out a legitimate goal, following which the government loses interest in the project but makes the office

permanent. The answer to this situation, in the view of the study team, is to assign a clear new mandate to the officials and to place their office within a department where it is most apt to carry out the new functions assigned to it in a renewed mandate.

The problems thought to exist when the original task force was established continue today and will go on needing to be resolved. A permanent office to coordinate regulatory functions therefore is required.

In addition to its principal mandate of simplifying the regulatory process and lightening the burden on industry, the reconstituted office could inherit several policy goals such as the coordination of federal regulatory work with that of the provinces and territories. Equally important is the continuation of the office's work to inform public officials about the regulatory process and to sensitize them to its effects on the private sector.

OPTIONS

Four serious alternatives may be considered: winding-up of the program; dispersal of ORR's current activities to the various regulatory departments and agencies; retention of the program within the Treasury Board with a redefined mandate; or transfer of the program to another branch of government where it would be more properly situated, coupled with a new and more comprehensive mandate.

Termination of the regulatory reform program would provide an immediate saving of less than $1 million to the Treasury Board's expenditures. It would, however, eliminate the possibility of improving the regulatory aspect of public sector/private sector relations. As regulatory activity will not cease, this option would, in the long run, lead to uncontrolled chaos and would induce much dissatisfaction among regulated sectors of industry.

Regulatory processes and techniques are similar across the government. The dispersal of ORR's functions to departments would therefore lead to lack of coordination and duplication.

Retention of the office within the Treasury Board Secretariat (TBS), but with a renewed mandate, is a viable

option but desirable only in the short term. Current officials of the office concede that the TBS's principal function is that of dealing with expenditure management; an office dealing with questions of increased efficiency in a particular governmental process belongs elsewhere. There is agreement, nevertheless, that even if the office is maintained as part of the TBS, a redefinition of its mandate is required.

In establishing a new mandate for the group, it should be remembered that regulations do not stand on their own, but are to be read together with the legislation that empowers a body to make them. Their analytical work would therefore be more properly focused on the complete packages which include the statutes and related regulations. The most appropriate function for a revitalized ORR to fulfill would therefore be that of an Office of Legislative Analysis.

The study team recommends to the Task Force that the government consider a combination of redefinition of mandate with transfer to an appropriate location within another branch of the public service.

In this process, the study team suggests the following considerations be taken into account. The closest working relationship of the ORR is with the Privy Council Office section of the Department of Justice, which conducts the legal and grammatical examination of the regulatory texts, the effects of which ORR analyses. It would therefore be most appropriate for the two groups to work together. The establishment of a closer link with the Standing Joint Committee of the Senate and House of Commons on Regulations and Other Statutory Instruments should also be aimed at. Consequently, if, as is proposed in the theme paper on the preparation of legislation, further study concludes that responsibility for all phases of the legislative process be concentrated in a new departmental structure under the leadership of the President of the Privy Council, the Office of Regulatory Reform could be made into an Office of Legislative Analysis and form part of that new department.

FIREARMS REGISTRATION
Royal Canadian Mounted Police

OBJECTIVES

The objectives of the legislation which established the present scheme of gun control were stated as being:

a. the prevention of irresponsible use of firearms;

b. the punishment of criminal use of firearms; and

c. the encouragement and assurance of responsible gun ownership and use.

It must be noted in this context that the firearms registration program under examination is only one aspect of the overall gun control thrust of the government.

AUTHORITY

The Criminal Code, Part II.1, in particular s. 106.6.

DESCRIPTION

Firearms registration is part of the RCMP's Identification Services. As such, it is one of the elements sustaining the core of federal policing.

The RCMP has maintained a centralized firearms registry system since 1951. In 1968, firearms were divided into the administrative classes which still exist today. The other elements of the current system of gun control were established by virtue of amendments to the Criminal Code which came into effect in 1970 and 1979.

Prospective purchasers of any firearm must apply for and obtain from local authorities a firearms acquisition permit. Persons wishing to obtain a weapon classed as restricted must, in addition, apply for a registration certificate to the local authorities. Such certifications may, however, be delivered only by the RCMP. Various other matters dealing with restricted weapons must also be sanctioned by permits. Those wishing to carry on a business related to restricted weapons or firearms must also be holders of a permit to carry on a business.

These declaratory sections of the Criminal Code are backed up by various offences relating to illegal carrying, handling and use of firearms, increased powers of search and seizure for the police and extensions in the applicable law on sentencing and related judicial orders.

The program is founded on a system of intergovernmental cooperation. Locally, police or other public service officials act as Chief Provincial or Territorial Firearms Officers, administering the Code and forwarding documentation to the RCMP. Pursuant to s. 106.3 of the Criminal Code, memoranda of agreement exist between the federal government on one hand and each of the provinces and territories on the other, for the administration of the Firearms Control Program. For each of these, the Solicitor General is the federal contracting party and the RCMP is the agency executing the terms of the agreement.

The core of the federal participation is the twofold task of the RCMP. First, with the registry it maintains pursuant to s. 106.6, it acts as a national coordinator and clearing house of information relating to individual and business dealings in firearms. Second, it is the only authority in Canada enabled to issue registration certificates for restricted weapons. The RCMP's other duties include the preparation of standard forms relating to implementation of the legislation, publication of a National Firearms Manual and preparation of an annual report for Parliament.

In addition to the work assigned by law to the RCMP, the Department of the Solicitor General has a Firearms Policy Centre within its Policy Branch.

The Chief Firearms Officers as well as representatives of several lobby groups constitute a National Firearms Advisory Council whose role is to recommend necessary changes to improve the federal government's firearms program.

Pursuant to s. 106.9 of the Criminal Code, the Solicitor General must lay before Parliament a yearly report relating to the administration of the information contained in the registry.

BENEFICIARIES

The firearms registration program is of greatest benefit to police forces. The Ottawa-based registry is a

data bank accessible to these forces and the information contained in it is useful in police investigative work.

The registration program, when considered in the larger context of gun control, is beneficial to the maintenance of public order. The bureaucratic control of firearms often acts as a deterrent to acquisition. Even where it does not, it is one of the elements that has combined to reduce the use of firearms in the commission of offences. While it is probable that a greater number of offences are now committed with other tools, it may also be surmised that firearms registration and gun control have helped reduce the overall commission of offences.

The major item of income is the statutorily fixed fee of $10 payable for firearms acquisition certificates. By virtue of the regulations, there are also fees for business permits. All these are collected and retained by the provinces. The principal expenditures they incur are the administrative costs of the program.

Federal expenditures arise primarily from the amounts paid by Canada to cover the difference between the fees actually collected and the federal-provincial "agreed cost" of each permit application.

Because of the different methods of accounting used by the RCMP and the Treasury Board, it is difficult to estimate the precise cost of firearms registration to the federal government. The following table is as complete as possible.

EXPENDITURES ($000)

	83/84 Actual	**84/85 Actual**	**85/86 Estimate**
Federal deficit	2,180	2,786	2,473
Firearms registration staff of RCMP HQ	585	610	640
Firearms Policy Centre of Solicitor Gen.	---	180	187
PYs			30

Other minor items of expenditure arise for federal authorities in relation to DSS audits of provincial accounts, printing of uniform weapons documentation and storage of permits.

The headquarters staff of the RCMP dealing with firearms registration consists at present of 30 persons. Of these, five are police officers and the remainder are public servants.

At the Secretariat of the Solicitor General, 2.3 person-years can currently be ascribed to firearms policy work.

OBSERVATIONS

The RCMP's firearms registration system seems to be soundly administered. Emphasis is laid on cost-effectiveness and speed of service. Computerization of the stored data is currently taking place.

The federal deficit arising from the payments to the provinces and territories presents the most pressing difficulty associated with the gun control program. The entire range of gun control activities arises from the desire of a portion of the population to use guns. The major financial burden is borne out of the RCMP's budget, which originates in general tax revenues. Putting this program on a cost-recovery basis would therefore seem more equitable.

One of the major questions to consider is the social effect of the legislation. Measurement of the cause-and-effect relationships is difficult but would be necessary to thoroughly analyse the effect of the program.

An even more difficult problem to resolve is the limit of the law's effect. There has been a decrease in the number of crimes committed with registered firearms. However, no statistical separation is available regarding offences committed with unregistered firearms, especially handguns. It is acknowledged that a black market exists in unregistered weapons which are used in the commission of violent crimes. Tightening of the legislation to deal with this area therefore seems appropriate in the view of the study team.

Considering the relatively low cost of firearms registration to the federal government, the fairly smooth operation of the entire program as well as the actual and long-term benefits in terms of social peace, this program is very worthwhile. The study team believes the current gun control system to be the minimum level of control at which freedom to use weapons in Canadian society ought to be maintained. It is also the one likely to be most acceptable from both the political and policy perspectives.

Even if the option of stricter controls is set aside for the moment, several specific issues ought to be addressed. First is the present wording of the Criminal Code. Part II.1 contains several loopholes which are exploited by persons knowledgeable in firearms and confirmed by the courts' strict interpretation of the Code. Most significant among these is the definition of "prohibited weapon" in s.82. As that definition now reads, one of its side effects is that weapons which are manufactured to be "capable of firing bullets in rapid succession" but which, at the time of seizure, have been slightly altered so as temporarily not to be so capable, are exempted from the law.

At present, the Code's system of business permits covers retail operations only. This merits re-examination to determine whether wholesalers should be included. Related to this is the matter of determining what constitutes a business. Many individual owners engage in activities that in any other field would qualify them as operating a business. It may be appropriate to determine how often a person can trade firearms for profit before being considered to be operating a business in the eyes of the law.

Another change to the law that could be examined in a review of the Code is the possibility of revoking firearms acquisition certificates for cause. The elements of the Code dealing with weapons being carried by private security guards should also be looked at in relation to the issuance of certificates and permits to companies and their use by individuals.

The financial aspects of firearms registration similarly bear close scrutiny. Under the present system, the federal treasury suffers a yearly deficit in the operation of this program. There seems no valid policy reason for the general taxpaying population to subsidize a service offered to the specific group of gun purchasers and

users. The achievement of cost-recovery therefore is an option for serious examination.

Cost-recovery can be achieved most simply by revising the permit fees. Other methods may be higher import duties on weapons, the imposition of fees for carrying permits or the imposition of fees for transfers of ownership of weapons.

A further area for reassessment is importation of firearms, especially weapons of war. There is evidence of an insufficient level of control over firearms being imported into Canada. Much of this is due, the study team believes, to deficiencies in customs legislation, which allows improperly identified and labelled weapons to be cleared for entry. Another aspect is the relatively loose cooperation between the various police forces and Canada Customs. Officers of this latter organization do not seem to have the expertise to apply the import control aspects of the law properly.

The Department of the Solicitor General has been pursuing policy and legislative amendment proposals through Cabinet. The Law Reform Commission is also examining this subject in the context of its criminal law review.

OPTIONS

The range of policy options relating to the future of the program of firearms registration are:

a. allow unfettered ownership of weapons;

b. maintain the current system of certificates and permits;

c. extend the variety of restricted weapons; or

d. prohibit private ownership of weapons.

While no public service preference was detected, it appears that public opinion is split between the extreme solutions and that the political system favors the status quo.

In light of the foregoing, it appears that the most viable alternative is to maintain the fundamental

elements of the existing system, while reexamining several of the specific aspects discussed above.

With respect to the administration of the program, the alternatives are:

a. maintain the existing system operated by the RCMP on the basis of information provided by local and regional police forces;

b. complete federalization;

c. complete provincialization; or

d. privatization.

The present structure relies on the participation of Canada, the provinces and territories as well as on a multitude of police forces. Federalization would result in additional costs arising from the need for more staff. Provincialization would have as its first result the disappearance of uniform application of the law and the consequential decrease in efficiency. The provinces might want to be compensated for the additional duties. Privatization would take enforcement measures relating to substantive criminal law out of the hands of governments.

The study team recommends to the Task Force that the government consider the following:

1. Retain both the firearms registration scheme and the other elements of the gun control program.

2. Establish the goal of full cost-recovery and achieve it by one or several of the most suitable methods available.

3. Study the effects of gun control legislation and determine how it can be enforced more effectively.

4. Revise the relevant sections of the Criminal Code in order to eliminate the textual difficulties and render it more effective.

5. Improve coordination among federal agencies dealing with the subject matter.

INFORMATION COMMISSIONER
Offices of the Information and Privacy Commissioner of Canada

OBJECTIVES

Access to Information is a principle that was made part of the Canadian legal system in 1983. Its purpose is to extend the present laws of Canada to provide a right to access to the information contained in records under the control of government institutions. This legislation was enacted to give effect to the new policy that government information should be available to the public, that necessary exceptions to this right should be limited and specific, and that decisions on the disclosure of government information should be reviewed independently of government. This legislation was intended to complement, and not to replace, existing procedures.

The Office of the Information Commissioner has as its principal function the investigation of complaints from people who believe they have been denied their rights under the provisions of this new law. The Information Commissioner also has the discretion to initiate a complaint regarding access to records under the legislation, where there are reasonable grounds to do so. Moreover, in certain circumstances specified in the legislation, the Information Commissioner may apply to the Federal Court for review of a refusal to access a record.

AUTHORITY

Access to Information Act

DESCRIPTION

The fundamental general rule of law brought into effect by the Access to Information Act is that every person who is a citizen or a permanent resident of Canada has a right to and shall, on request, be given access to any record of listed government institutions. This statute supersedes the previous rules of common law on the question of accessibility. It was also intended to change the practice of public servants in keeping their records confidential. The Act sets out a series of mandatory exemptions and a series of discretionary exemptions from the foregoing rule.

Heads of government institutions are required to refuse access to applicants, where the information requested relates, among other things, to confidences received from a foreign state, a province or a local government; to personal information; to some trade secrets or the financial information of a third party; or, where a prohibition contained in another federal statute forbids disclosure. By contrast, heads of government institutions have the option of refusing access to applicants where the information requested relates, among other things, to federal-provincial relations, the conduct of international affairs or the defence of Canada, lawful investigations or law enforcement, certain trade, financial, scientific secrets or recommendations developed by or for a government institution or a minister of the Crown. In addition to these exemptions, the Act is declared not to apply at all to an entire class of documents categorized as confidences of the Queen's Privy Council for Canada.

An originating request for access is made to the department which the applicant believes has the record in which he or she is interested. The Office of the Information Commissioner intervenes where a complaint is received from an applicant, alleging that access to the records requested, or to a part of them, has been denied. The office may also intervene in relation to various other causes of complaint by applicants. At this stage of proceedings, the intervention of the Information Commissioner takes the form of an investigation. In carrying out these functions, the commissioner has a wide range of quasi-judicial powers.

According to the Act, the Information Commissioner may also initiate a complaint proprio motu. Such a complaint can lead to an investigation of the same nature and be held under the same conditions as if another person had be requested it.

After having conducted an investigation, the commissioner may find that the refusal to grant access was supportable or not supportable in law. These conclusions are set down in a report containing the appropriate findings and recommendations and in some cases a request that notice be given to the commissioner of action to be taken to implement the recommendations. The commissioner's office may also play a role in negotiating a settlement of the application between the parties involved.

If the matter is not resolved to the applicant's satisfaction at this stage, he or she may apply further to the Trial Division of the Federal Court for a review of the decision rendered at the departmental level. If the applicant consents, the request for review can be addressed to the Federal Court by the Information Commissioner. The right of yet further appeals is dealt with in the Federal Court Act and the Supreme Court of Canada Act.

From July 1, 1983, the date on which the Access to Information Act entered into force, until September 30, 1985, 3,681 requests for access were made. Of these, approximately one-tenth reached the stage of complaints requiring investigation. The departments most often targeted with access requests have been National Defence, Employment and Immigration, Health and Welfare, External Affairs and the combination of the Solicitor General, the RCMP and the Canadian Security and Intelligence Service. Approximately one-third of the applications have been submitted by the media, another third by business groups and the last third by a variety of others. It is significant to note that with the accumulation of wider experience under the legal regime established by the Act, access requests have been becoming increasingly complex.

BENEFICIARIES

The Act, as formulated, intends that citizens and residents of Canada be the beneficiaries of the right it provides. The number of actual beneficiaries is of course much more restricted; it includes only these persons who have used the mechanisms set out in the law. According to the commissioner, the potential benefit to be derived from the Act is limited by the very low level of awareness about its existence among the population.

EXPENDITURES

The Office of the Information Commissioner is organizationally and administratively tied to the Office of the Privacy Commissioner. Consequently, the table appearing below shows the expenditures incurred by and the person-years allocated to the combined offices. The same table is therefore also reproduced in the report dealing with the other office. The figures below are quoted from Part III of the 1985/86 Estimates. Readers should note that

1984 was the first complete calendar year and hence 1984/85 was the first fiscal year during which these offices operated.

85/86 Main Estimates ($millions)

	Authorized PYs	Budgetary Operating	Capital	TOTAL	84/85 Main Estimates
Information Commissioner	13	.9	-	.9	.8
Privacy Commissioner	19	1.3	-	1.3	1.2
Administration	21	1.	25	1.	.9
TOTAL	53	3.2	25	3.2	2.9

OBSERVATIONS

The essential characteristic of the Office of the Information Commissioner is its independence from the executive arm of the government. The commissioner is appointed by the Governor-in-Council after approval of the appointment by resolution of the Senate and the House of Commons. The term of office of the commissioner is a renewable seven years. As an independent officer of Parliament, the commissioner reports directly to the Senate and the House of Commons through their speakers. Removal from office may occur only by address of the Senate and House of Commons to the Governor-in-Council.

The Act sets out that the commissioner shall submit an annual report to Parliament and may at any time make a special report to it, referring to and commenting on any matter within the scope of the powers, abilities and functions of the office. Beyond these reports, the Act is to be reviewed on a permanent basis by a committee of the House and Senate designated for that purpose. Most importantly, within three years of the Act coming into force, this Parliamentary Committee is to undertake a comprehensive review of the provisions and operation of the Act. This "three-year review" is to lead to a report to Parliament and is to include a statement of any changes the committee would recommend. The three-year period within which the Parliamentary review is to begin expires on July 1, 1986.

A distinct program entitled "Access to Information and Privacy Publications" of the Treasury Board Secretariat deals with the preparation and distribution of publications required to put the substantive Access and Privacy policies into effect. The "Access Register" and "Index to Personal Information" yearly catalogues, which list the government's information holdings, are the most important products of this program. A separate profile has been prepared on that publications program.

Having regard for the independence of the Information Commissioner from the executive branch of government and keeping in mind the Parliamentary review soon to be held in compliance with s.75 of the Access to Information Act, the study team conducted a summary appraisal of the Office of the Information Commissioner in the course of preparing its interim report but did not study this program further.

PRIVACY COMMISSIONER
Offices of the Information and Privacy Commissioners of Canada

OBJECTIVES

Privacy is a principle which gives individuals the legal right of access to personal information about them held by the federal government. This principle was first introduced into the Canadian legal system in 1978, by way of what was then Part IV of the Canadian Human Rights Act. In 1983, the law on this topic was modernized by the enactment of the Privacy Act and the repeal of earlier legislation. The current Act is the legal and logical counterpart of the Access to Information Act, which brought it into effect. The purpose of the new statute is to extend the present laws of Canada which protect the privacy of individuals with respect to personal information about themselves held by government institutions. Like its predecessor, this law continues to assure individuals the right of access to such information. In addition, the Privacy Act contains a set of principles for fair information practices, by which the government must abide.

The Office of the Privacy Commissioner is the body charged with the administration of the Privacy Act. The principal function of the Privacy Commissioner is to investigate complaints from individuals who believe they have been denied their rights under the law of privacy. The Privacy Commissioner also has the discretion to institute a complaint under the Act, where there are reasonable grounds to do so. Moreover, in certain circumstances specified in the legislation, the Privacy Commissioner may apply to the Federal Court for review of a refusal to disclose personal information.

AUTHORITY

Privacy Act

DESCRIPTION

The fundamental general rule of law brought into effect by the Privacy Act is that every individual who is a citizen or a permanent resident of Canada has a right to and shall, on request, be given access to any personal information about him/herself contained in the personal information

banks of listed government institutions. The Act also sets out a series of mandatory and discretionary exemptions from the foregoing rule. This statute supersedes and expands on the privacy protection measures previously contained in the Canadian Human Rights Act.

The heads of government institutions are bound to refuse access to applicants where the information requested relates to personal information obtained in confidence from a foreign state, an international organization, a province or a local government, or where it relates to personal information that was obtained or prepared by the RCMP while performing police services for another level of government. By contrast, the heads of government institutions have the option of refusing access to applicants where the information requested relates, among other things, to federal-provincial relations, the conduct of international affairs or the defence of Canada, lawful investigations or law enforcement, the granting of security clearances, or information the disclosure of which could threaten the safety of individuals. In addition to these exemptions, the Act is declared not to apply at all to an entire class of documents categorized as confidences of the Queen's Privy Council for Canada.

An originating request for access to personal information is made to the department which the applicant believes has the personal information in which he or she is interested. The Office of the Privacy Commissioner intervenes where a complaint is received from an applicant alleging that access to personal information has been refused or that information about the applicant held by a government institution has been used in a way that contravenes the law. The office may also intervene regarding various other complaints. At this stage, the intervention of the Privacy Commissioner takes the form of an investigation. In carrying out these functions, the commissioner has a wide range of quasi-judicial powers.

According to the Act, the Privacy Commissioner may also initiate a complaint proprio motu. Such a complaint can lead to an investigation of the same nature and be held under the same conditions as if another person had requested it. The commissioner also has the power to conduct investigations into personal information banks, independently of any complaint.

After having conducted an investigation, the commissioner may find that the complaint is or is not well founded in law. These conclusions are set down in a report containing the appropriate findings, recommendations and in some cases a request that notice be given to the commissioner of action to be taken to implement the recommendations. The commissioner's office may also play a role in negotiating a settlement of the application between the parties involved.

If the matter is not resolved to the applicant's satisfaction at this stage, he or she may apply further to the Trial Division of the Federal Court for a review of the decision rendered at the departmental level. If the applicant consents, the request for review can be addressed to the Federal Court by the Privacy Commissioner. The right of yet further appeals is dealt with in the Federal Court Act and the Supreme Court of Canada Act.

From July 1, 1983, the date on which the present Privacy Act entered into force, until December 31, 1984, 36,391 requests for access to personal information were made. Of these, a limited number reached the stage of complaints requiring investigation. The departments most often targeted with requests for access to personal information have been Employment and Immigration, the RCMP, the Canadian Security and Intelligence Service, National Defence, the Public Archives, Revenue Canada and the Correctional Service.

BENEFICIARIES

The Act, as formulated, intends that citizens and residents of Canada be the beneficiaries of the right it provides. The number of actual beneficiaries is of course much more restricted; it includes only those persons who have used the mechanisms set out in the law. According to the commissioner, interest in the use of the privacy legislation has constantly been on the increase, even though no governmental effort has been undertaken to make the Act more widely known.

EXPENDITURES

The Office of the Privacy Commissioner is organizationally and administratively tied to the Office of the Information Commissioner. Consequently, the table appearing below shows the expenditures incurred by and the person-years allocated to the combined offices. The same

table is therefore also reproduced in the report dealing with the other office. The figures below are quoted from Part III of the 1985/86 Estimates. Readers should note that 1984 was the first complete calendar year and hence 1984/85 was the first fiscal year during which these offices operated.

85/86 Main Estimates ($millions)

	Authorized PYs	Budgetary Operating	Capital	Total	1984/85 Main Estimates
Information Commissioner	13	.9	-	.9	8
Privacy Commissioner	19	1.3	-	1.3	1.2
Administration	21	1.	25	1.	.9
TOTAL	53	3.2	25	3.	2.9

OBSERVATIONS

The most essential characteristic of the Office of the Privacy Commissioner is its independence from the executive arm of the government. The commissioner is appointed by the Governor-in-Council after approval of the appointment by resolution of the Senate and the House of Commons. The term of office of the commissioner is a renewable seven years. As an independent officer of Parliament, the Commissioner reports directly to the Senate and the House of Commons through their speakers. Removal from office may occur only by address of the Senate and House of Commons to the Governor-in-Council.

The Act sets out that the commissioner shall submit an annual report to Parliament and may at any time make a special report to it, referring to and commenting on any matter within the scope of the powers, abilities and functions of the office. Moreover, the commissioner shall, upon a request by the Minister of Justice, carry out special studies relating to the privacy of individuals and the collection of personal information.

Beyond these reports and studies, the Act is to be reviewed on a permanent basis by a committee of the House and Senate designated for that purpose. Most importantly, within three years of the Act coming into force, this

Parliamentary committee is to undertake a comprehensive review of the provisions and operation of the Act. This "three-year review" is to lead to a report to Parliament and is to include a statement of any changes the committee would recommend. The three-year period within which the Parliamentary review is to begin expires on July 1, 1986.

A distinct program entitled "Access to Information and Privacy Publications", conducted by the Treasury Board Secretariat, deals with the preparation and distribution of publications required to put the substantive access and privacy policies into effect. The "Access Register" and the "Index to Personal Information" yearly catalogues, which list the government's information holdings, are the most important products of this program. A separate profile has been prepared on that publications program.

Having regard for the independence of the Privacy Commissioner from the executive branch of government and keeping in mind the Parliamentary review soon to be held in compliance with s.75 of the Privacy Act, the study team conducted a summary appraisal of the Office of the Privacy Commissioner in the course of preparing its interim report but did not study this program further.

ELECTIONS CANADA

OBJECTIVES

The Chief Electoral Officer has a mandate which includes the following principal duties:

a. the administrative conduct of federal elections;

b. the calculation of the number of federal electoral districts assigned to each province and the coordination of the work of provincial and territorial electoral boundaries commissions;

c. the registration of political parties;

d. the enforcement of legislation relating to electoral expenses; and

e. the enforcement of legislation relating to political broadcasts.

AUTHORITY

The Constitution Act, 1867, s. 51
The Canada Elections Act
The Electoral Boundaries Readjustment Act

DESCRIPTION

The most important and hence the most visible aspect of the work of the Office of the Chief Electoral Officer is that which encompasses the entire range of administrative activities related to elections.

In the periods leading up to the holding of elections, the Chief Electoral Officer (CEO) selects and appoints returning officers and trains these officers, their deputies as well as poll clerks for each of the electoral districts. He also provides all necessary supplies to the officials in each riding. In particular, he distributes ballot boxes and assures the printing and distribution of ballot papers.

The CEO has several duties relating to the preparation of elections. First, he arranges the division of electoral districts into polling divisions. Then he organizes and

supervises the preparation of lists of electors through the enumeration process. He also prepares the official lists of candidates resulting from the system of nominations. Still prior to the date determined for the holding of the poll, the CEO organizes the advance polls and supervises the early voting procedure.

With respect to the actual conduct of elections, the role of the CEO is vital in all non-political respects. The CEO organizes the proceeding of work at the polls and establishes the manner of voting and, assures the orderly counting of votes and the reporting of results. The CEO also makes official declarations as to which candidates have won at the polls and compiles election returns. After elections are over, the CEO maintains the official list of elected candidates and retains custody of election documents.

The Chief Electoral Officer fulfills the same functions for federal by-elections. Moreover, he may enter into agreements to organize the conduct of elections for the councils of the Yukon and Northwest Territories.

In relation to each general election conducted and to each year in which the office operated, the CEO must provide a report to Parliament. The Chief Electoral Officer sometimes uses these reports to bring forward recommendations for the revision and modernization of electoral legislation.

The volume of work decreases significantly between elections. This reality is reflected in the Act by the presence of provisions enabling the CEO to hire either permanent or temporary and casual staff. This flexibility in employment practice is significantly different from the rules applicable to most departments.

Whether between elections or at election time, the office of the CEO relies in large part on the services that various departments can provide. In this context the most prominent examples of interdepartmental cooperation are that maps are prepared for the CEO by Energy, Mines and Resources; records retention is done by the Public Archives; audit services are furnished by Supply and Services; and premises are made ready by Public Works.

The CEO's legal advice is provided by a lawyer whose status is that of a public servant, but who is not an employee of the Department of Justice. The reason for this is to avoid any conflict of interest for the legal adviser, considering that the Minister of Justice is also a member of the House of Commons, elected pursuant to the process administered by the CEO.

BENEFICIARIES

The conduct of fundamentally fair, independently administered and efficiently organized elections is of benefit to all Canadians and to the democratic political system of the country as a whole. While this has always been true, it is even more apparent since the adoption of the Charter, which in section 3 contains a declaration guaranteeing to citizens of Canada the right to vote in an election of members of the House.

EXPENDITURES

The major part of the CEO's expenditures are statutory. Into this category fall all the major activities of the office related to its statutory responsibilities, the preparation and conduct of elections as well as the readjustment of electoral boundaries.

The non-statutory budget includes salary expenditures for the CEO's nucleus group as well as for the financial and material resources needed to support these personnel.

The Treasury Board's expenditure figures are as follows:

Resources ($millions)

	83/84 Expenditures	84/85 Main Estimates
Non-Statutory Budget		
Salaries and Wages	1.7	1.9
Other O&M	.2	.2
Grants & Contributions	-	-
Capital		
TOTAL	1.9	2.1
Revenue	-	-

OBSERVATIONS

The most significant observation to be made about the office of the CEO is that it is independent from the executive branch of government. In sum, it is a creature of Parliament; it serves the legislature and is accountable only to it. In practical terms, this independence and neutrality find expression in the method of appointment of the CEO, which is by resolution of Parliament. During his/her occupancy of the function, the CEO communicates with the Governor-in-Council through the President of the Privy Council but takes no direction from any member of the government. The CEO can be removed from office only by the Governor General, on address of the Senate and House of Commons.

OPTIONS

Having regard for the independence of the Office of the Chief Electoral Officer from the executive branch of the government and keeping in mind the politically sensitive nature of the tasks the CEO fulfills, the study team conducted a summary appraisal of this office in the course of preparing its interim report but did not study this program further.

INTERNATIONAL JOINT COMMISSION

OBJECTIVES

The principal functions of the International Joint Commission (IJC) are to:

a. approve certain uses of and works in waters of the Canada-United States boundary and in rivers flowing across the border;

b. deal with questions involving rights along the frontier which are referred to it for examination and report;

c. decide matters of difference between the two countries, with the consent of both parties; and

d. fulfill limited administrative and regulatory functions relating to the level of the Lake of the Woods.

AUTHORITY

Boundary Waters Treaty, 1909 and the implementing International Boundary Waters Treaty Act; Treaty and Protocol between Canada and the United States to regulate the level of the Lake of the Woods, 1925; and Great Lakes Water Quality Agreement, 1978

DESCRIPTION

The International Joint Commission is a permanent, unitary body established by treaty between Great Britain and the United States, to which Canada has succeeded. The IJC is an international organization whose status has been recognized by Canada in the form of an order made pursuant to the Privileges and Immunities (International Organizations) Act. It has two headquarters, in Ottawa and Washington, as well as a regional office in Windsor, Ontario.

The IJC is composed of six commissioners, of whom three are Canadian. These Canadian commissioners are Order-in-

Council appointees, named on the recommendation of the Secretary of State for External Affairs. The Chairman of the Canadian section has the rank of a deputy minister and is assisted by the commission staff, consisting of a secretary, a legal adviser, scientists, engineers and support personnel. These officials act not as a national delegation representing the government of Canada, but rather as members of a single body seeking common solutions.

The IJC's current operations can be divided into three broad categories. The first is its exercise, by virtue of the Boundary Waters Treaty, of quasi-judicial powers in approving or withholding approval of applications for the use, obstruction or diversion of boundary waters on either side of the border that would affect the natural level or flow on the other side. This responsibility extends to the approval of works in water flowing from the boundary waters and in waters that have crossed the boundary, when such works would affect the natural water level on the other side of the boundary.

The IJC also carries out examinations of specific problems when requested by either or both governments and reports on them. Implementation of the commission's recommendations made under such a reference is at the discretion of the two governments and is not mandatory.

The IJC was assigned additional functions by the 1978 Great Lakes Water Quality Agreement. This agreement addresses all aspects of the Great Lakes Basin ecosystem, including pollution from water, land and atmospheric deposition. It constitutes a reference to the commission, pursuant to the 1909 Boundary Waters Treaty, to analyse information on water quality and the effectiveness of government pollution control programs and to advise governments on Great Lakes water quality problems. This reference is symptomatic of the fact that in recent years the commission's focus of attention and its principal efforts have been devoted to responding to references concerning environmental matters.

In carrying out its mandate, the IJC does not rely exclusively on its own staff. In fact, an indispensable part of the institutional structure set up to implement the 1909 treaty consists of the expert boards the commission has established to assist it in performing its functions. These control, investigative and advisory boards, of which there

are now more than 20, are composed mainly of Canadian and U.S. public servants, made available without cost to the commission. The boards bring technical expertise to the work of the commission in addition to that available among its own officials.

BENEFICIARIES

The Boundary Waters Treaty was designed to help prevent and settle disputes regarding the use of boundary waters. The commission's work, being quasi-judicial, often obviates the need for strictly political resolution of complex technical problems. In this context, the IJC contributes to the "undefended" status of the world's longest undefended border. Beneficiaries in the direct sense are those who reside or earn their living along boundary waters or along rivers flowing across the border. From another perspective, the Government of Canada and the United States benefit from the IJC's work.

EXPENDITURES

The IJC's budget for 1984/85 was $3.36 million. For 1985/86 estimated expenditures are $3.45 million. These funds are provided through the External Affairs envelope, within which the Treasury Board deals with the IJC as a separate institution.

The commission's Canadian personnel consists of 47 person-years. Of these, three are commissioners. There are nine officers and 12 support staff in Ottawa and another 10 officers and 13 support staff in Windsor. The Treasury Board has ordered that this complement be reduced by two person-years.

OBSERVATIONS

Because of its international nature and function, the Canadian section of the International Joint Commission is a very particular element of the public administration of Canada. Its principal characteristic is its independence from individual ministers or departments in the executive branch of government. It is responsible to the government as a whole, however, through its constitutional accountability to Parliament.

The manifestations of this independence are very apparent. IJC commissioners take no oath of allegiance to Canada, but do take one to the treaty which established the

commission. The IJC does not fall within the ambit of the Financial Administration Act and is not listed in the schedules of the Access to Information and Privacy acts. It would appear, therefore, that de jure, the IJC is a sui generis organization.

This juridical independence contrasts sharply with the de facto interdependence existing between the IJC and several departments. The Public Service Commission organizes the staffing of IJC positions. The departments of Environment and Transport provide members for many of the IJC's boards. Other assistance is received from Public Works and Supply and Services. Finally, because of the nature of the IJC's work, there is much interaction between it and the Department of External Affairs. These inter-departmental arrangements are very flexible and seem to function well for the benefit of all parties.

There is no apparent overlap or duplication between the work of the International Joint Commission and that of any other agency of the Government of Canada.

OPTIONS

Having regard for the independence of the International Joint Commission from the executive branch of government and keeping in mind its status as an international, rather than a purely Canadian organization, the study team conducted a summary appraisal of the IJC in the course of preparing its interim report but did not study this program further.

POLITICAL CONTRIBUTION TAX CREDIT

OBJECTIVES

The purpose of including the political contribution tax credit in Canada's income tax legislation was to engender the interest of a greater number of people in the federal political process and to encourage them to participate in it. The fostering of a broad base of small contributors providing funds on a formalized basis is also designed to limit the opportunity and need for large, anonymous contributions to political parties and candidates.

AUTHORITY

The Income Tax Act, in particular sections 18(1)(n), 127(3)(4)(4.1) and 230.1.
The Income Tax Regulations, in particular Part XX.

DESCRIPTION

The present scheme of political contribution tax credits was brought into effect on August 1, 1974. The policy underlying this part of the Income Tax Act was elaborated by the Department of Finance. Ongoing administration is carried out by the Legislation Branch of Revenue Canada-Taxation.

In any taxation year, taxpayers may deduct from tax otherwise payable under Part I of the Act contributions to a registered party or official candidate in a federal election or by-election. The deduction is calculated as a percentage of the actual contribution made, according to the following scale:

75 per cent of the first $100 contributed;
50 per cent of the next $450; and
33.3 per cent of the next $600.

The maximum allowable deduction is $500 and is available where the taxpayer has contributed $1,150. For these purposes, party membership fees are allowed as deductions.

In the calculations relating to income taxation, this item is a tax credit rather than a deduction from income. The purpose of this arrangement is that the deduction be

neutral for high- and low-income earners. Moreover, it is applied only against federal tax. The determination of the deduction is therefore made by first calculating income according to the general rules, then taxable income, then federal tax and provincial tax separately, and finally by applying the deduction against the federal tax otherwise payable.

The political contribution tax credit is administered on the basis of a system of receipts and reports. When a person makes a contribution, the official agent of the candidate or the registered agent of the party to which the contribution was made may issue official receipts to that person. Records of contributions received and receipts issued must be kept by these agents. Copies of the receipts must be forwarded to Revenue Canada-Taxation and reports on contributions received must be sent to the Chief Electoral Officer of Canada. After each election, political parties are required to make annual reports and candidates for political office must report on the receipts issued.

The application of this reporting scheme to candidates is limited in time. Receipts for contributions made to them may be issued only starting on the day the candidate is nominated and ending on the polling day. No such restriction in time is applicable to parties.

BENEFICIARIES

The principal benefit of the political contribution tax credit is in the increased transparency and hence democratization of the electoral system. According to the original purpose and the actual operation of this tax credit, not only does it provide a financial inducement for participation in the political process, but it also ensures that participation is made in a standardized and formal manner. This is achieved by declaring political contributions to the state through income tax returns while protecting the contributor's confidentiality from third parties who do not have access to those returns. The taxpayer's contribution is made known to state authorities but his or her privacy is maintained pursuant to section 241 of the Income Tax Act.

From a more immediate perspective, political parties and their candidates derive benefit from the presumably greater number of contributions to their coffers.

EXPENDITURES

The expenditures related to this program are to be seen primarily in the form of tax revenue foregone by the treasury. The determination of that cost varies according to the monetary value of the individual contributions made and by virtue of the level of political interest in any year. By this standard, the program is most expensive and therefore detrimental to federal income in years when general elections are held, because it is in those years that interest in political participation is most acute.

Statistical and Financial Breakdown(1)
Political Contribution Tax Credit

($000)	1982	1983	1984
Number of claimants	95,000(2)	104,599(2)	174,742(3) (contributions to parties and candidates)
Contributions to parties	21,623	27,282	38,644
Receipts issued by parties	-	27,074	37,218
Contributions to candidates for an election	-	-	24,327
Amount of political contribution tax credit claimed	Approx. 6,000	8,237	13,001

(1) This table is a composite of information gathered from Revenue Canada - Taxation, Finance and the Chief Electoral Officer. There is no uniformity in the figures kept by these departments.

(2) Contributions to parties only.

(3) Contributions to parties and candidates.

It is expected that in 1985 the number of contributions will decrease. Consequently, the tax loss will also be lighter.

Ongoing administration of the program requires one person-year at Revenue Canada-Taxation, costing approximately $30,000 per year. The department also incurs expenses related to occasional audits. The Election Financing Branch of the Office of the Chief Electoral Officer is also involved in operating this tax credit scheme.

OBSERVATIONS

The political contributions tax credit is new law in the sense that this topic was not dealt with by the Income Tax Act prior to 1974. Comparison of current levels of contribution with pre-1974 levels are thus impossible. It is to be surmised that the availability of the credit has induced greater participation. Since the introduction of this measure, the number of contributions has certainly risen and, in that sense, the original goal of the legislation has been met.

The federal scheme has also served as a model for other Canadian jurisdictions. Parallel legislation has been introduced everywhere except Saskatchewan, Prince Edward Island, Newfoundland and the Northwest Territories.

For a full understanding of the subject matter, the political contribution tax credit must be considered together with the legal provisions dealing with electoral expenses. The legislation regarding these topics in essence regulates a single continuous flow of funds into and out of political organizations, whether on the local or national scale. The amendments to the Income Tax Act and the Canada Elections Act which established the rules on the funding of and spending by parties and candidates were introduced not only to encourage participation but also to publicize the financing of electoral campaigns and eradicate the practice of secret funding of parties and candidates. While large donations may still be made, the political contribution tax credit provides a disincentive since parties' and candidates' agents will issue official receipts for no more than the maximum of $1,150 from which allowable deductions may be made.

ASSESSMENT

On the whole, the study team believes the political contribution tax credit has worked well in the direction desired by its framers. One significant administrative difficulty, however, is apparent, . Agents of political parties and candidates must report on the contributions received to both Revenue Canada-Taxation and the Chief Electoral Officer. Despite the fact that the information needed by these agencies to regulate the political contribution tax credit is the same, their respective statutes are so worded that the substance as well as the form of the reports are different. This represents not only duplication, but also administrative inefficiency, because the statistics finally produced by the two departments do not match.

Policy amendments to the existing scheme could either make the contributions deductable from income rather than income tax payable, or repeal the tax credit altogether. Neither seems desirable.

OPTIONS

The study team recommends to the Task Force that the government consider having only one agency receive, record, file, act on and publish statistics arising out of the political contribution tax credit. Considering that this is a matter relating to the electoral system, the Chief Electoral Officer is best suited to this function. Concurrently, it is important to maintain the principle of accessibility to both the raw data and to the tabulated figures by Revenue Canada-Taxation. To achieve this, simultaneous amendments to bring the reporting requirements contained in the Income Tax Act and the Canada Elections Act into line with each other seem necessary. In enacting these amendments, care must be taken to continue to protect the privacy of contributors.

This program provides a potential benefit available to all the people of Canada who want to exert an influence on the electoral process by financial means and an actual benefit to those who avail themselves of the opportunity. The scheme in place seems to have wide political acceptance. It is as neutral as possible in the existing

regime of taxation and is relatively inexpensive to the treasury. This option would bring no change to its fundamental elements, while correcting the administrative difficulties inherent in the system of reporting to two government departments.

ACCESS TO INFORMATION AND PRIVACY PUBLICATIONS
Treasury Board Secretariat

OBJECTIVES

Both the Access to Information Act and the Privacy Act require the publication and distribution of inventories showing the information holdings of government. In accordance with those statutory obligations, the purpose of this program is to provide the general public with the means to avail themselves of their rights provided by the two Acts.

AUTHORITY

Access to Information Act
Privacy Act

DESCRIPTION

The Access to Information and Privacy (ATIP) Publications Program consists of the preparation, production, printing and distribution of a variety of publications designed to enable the public to use the ATIP Acts. The most important of these publications are the "Access Register" and the "Index of Personal Information". In addition, program officers prepare the forms required for the administration of ATIP procedures, gather quarterly statistical reports on the operation of the Acts and publish explanatory pamphlets and posters regarding the legislation.

The Access Register brings together, for the first time in a single publication, a detailed listing of the information holdings attached to each government program and provides a description of the contents of each such information bank. According to a Treasury Board submission made in September 1985 to the House of Commons Standing Committee on Justice and Legal Affairs, the register represents a major effort on the part of government to facilitate the identification of records sought by applicants for access to information.

The Index of Personal Information is a publication which parallels the Access Register and which describes the personal information holdings of government institutions. It also outlines the practices these institutions apply to such information to meet the requirements of the Privacy Act

regarding collection, retention and disposal of personal information, as well as its use and disclosure.

Both the Register and the Index are the result of several years of preparation by all government institutions which come within the ambit of the ATIP Acts. This preparation was coordinated by a transition team based in the Treasury Board Secretariat. Since 1983/84, the two publications have appeared annually. Their circulation at the most recent count is 8,340. Of this number, 2,657 are distributed to public libraries across Canada; 2,000 are for sale by the Department of Supply and Services; 700 are used in Parliament; 561 are distributed to post offices; and 373 are sent to institutions of higher learning.

In addition to the publications, a very important product of the program is the group of Treasury Board Directives which sets out administrative practices and procedures relating to the handling of ATIP applications.

BENEFICIARIES

Beneficiaries of this program are those to whom the ATIP Acts apply, i.e. citizens of Canada or permanent residents within the meaning of the Immigration Act, 1976.

EXPENDITURES ($000)

	83/84	84/85
Salaries	409	566
O&M	610	941
TOTAL	1,019	1,507
PYs	8	10

To deal with ATIP publications, the Treasury Board Secretariat uses fairly limited internal manpower. At the peak times of each year, however, when the Register and Index are collated and made ready for distribution, the board hires up to 30 temporary employees.

OBSERVATIONS

Administration of the subject matter of ATIP through a cluster of programs, including this one, is split among a variety of government institutions. The principals are the Access and Privacy Commissioners who establish the major policies in their respective fields and who can represent applicants or act with them in litigation against the Crown. These commissioners are appointed by Parliament and are responsible to it. For purposes of administration of the laws, the Minister of Justice and the President of the Treasury Board are "designated Ministers", each dealing with different aspects of the two Acts. The former functions essentially as the Crown's own legal adviser and attorney in case of litigation. The latter deals with administrative matters and related central services that arise in the execution of the government's ATIP functions. Moreover, there is an ATIP coordinator in each department and agency to which these Acts apply. They see to the detailed execution of the government's duties under the Acts. There is also some peripheral involvement in ATIP by Statistics Canada and the Public Archives.

In the multiplicity of involvements by government agencies in ATIP, the presence of the Treasury Board Secretariat is based on the role assigned to that body by the Financial Administration Act, as the department responsible for administrative policies on a government-wide basis.

The deployment of personnel engaged in the ATIP publications program is sound. Most of the permanent staff involved deal with this topic as only part of the set of tasks assigned to them. The overload of work is performed once a year by temporary personnel.

Printing of the Register, the Index and the related publications is performed by private companies on a contractual basis. Performance in this area appears satisfactory both to the board and the commissioners.

Some thought has been given to computerization of the major publications and their accessibility through electronic means. It is feared, however, that the costs would be prohibitive, in light of the limited use that could then be made of the Register and the Index. For remote

areas of the country, without the required equipment, hard copies would continue to have to be produced. Moreover, the costs would be compounded by annual revisions and additions to the texts.

ASSESSMENT

In the view of the study team, the principal question is whether the information contained in the Register and the Index is the right information to enable prospective applicants to benefit from the rights assured to them in the acts. The content of the Register and the Index is determined by the two acts. There is thus no leeway, short of amending the legislation, to alter the information. The quality of the information, however, varies, department-by-department. While the Treasury Board Secretariat requests departments to come forward with listings of their data banks and coordinates and collates the information provided, individual departments prepare their own submissions. The accuracy and reliability of these submissions has varied greatly. There is, nevertheless, an offsetting benefit, in that a partial correlation can be established between departments providing the best reports and those to which most access and privacy requests are addressed.

One must also question if whether the information provided is properly presented. The major problem with the ATIP publications program as it is now organized is the format in which the information is presented. While the two Acts contain the substantive requirement that the Register and the Index be published, they do not mention form. The volumes now put out by Treasury Board are enormous and unwieldy. The presentation of the information is far too complicated and obscure. Both the size and the internal arrangement of these books are therefore thought to act as deterrents to the greater use of the rights provided by the legislation.

At present, in order to attempt access to a specific item of information, an applicant must know in which information bank it is contained, and which government department holds that bank. Many applicants do not have that knowledge. Requests for access are thus often shunted from one branch of government to the other until, by accident, the right source is discovered. This is obviously not in line with the legislator's intention.

Prospective users of the Access and Privacy schemes could have their rights facilitated by restructuring the format of the Register and the Index. The most suitable way of accomplishing this goal would be to combine these publications listing information banks with others which catalogue federal government institutions and enumerate federal government programs and services, and then cross-reference these publications. The "Access Register" and "Index to Personal Information", used in conjunction with, and cross-referenced to, "The Organization of the Government of Canada" also published by the Treasury Board, and the DSS "Index of Government Programs and Services", would provide a complete package indicating what the government consists of, what it does and what information it accumulates. In the view of the study team such a combination of diverse publications would not only assist applicants under the two Acts in question, but would have a cumulative impact in enabling citizens to interact with their government more effectively.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

The first alternatives to be examined is whether or not this program should be continued. Considering that the publications prepared pursuant to it are required by law, discontinuation is not an option. As long as the Acts remain in force, the Treasury Board Directives designed to give effect to them are also required.

It must be determined whether the access and privacy publications are to be left in their present state or altered. In considering this, the guiding criterion ought to be the spirit of the legislation. Both these Acts provide clear evidence of Parliament's intent to give new rights to the designated beneficiaries. It would therefore appear equitable that the new rights be accompanied by auxiliary programs enabling the beneficiaries to use these rights. Rendering the ATIP publications manageable and useful by having them coordinated with and cross-referenced to the related publications entitled "The Organization of the Government of Canada" and the "Index of Government Programs and Services" seems the most appropriate option to adopt.

The publication of these books is an operation only ancillary to the exercise of the substantive rights granted by the ATIP legislation. The privatization of this entire program may therefore be an option to consider, as long as adequate government control of the final product is maintained.

By July 1, 1986, when the ATIP Act will have been in force for three years, Parliament will be required to undertake a review of this area of law. It is presumed that flaws in the existing legislation will be corrected. The framework within which ATIP publications will be needed may be altered in the course of that Parliamentary review. The most suitable course of action at present would therefore be:

a. to suspend execution of the Task Force's recommendations with regard to this program until the Parliamentary review has been undertaken;

b. to inform the Access Commissioner, the Privacy Commissioner and the Chairman of the Parliamentary Committee conducting the review of the terms of the Task Force's proposals; and

c. to coordinate execution of the Task Force's proposals with those of the Parliamentary Committee.

CORRECTIONS

OVERVIEW

The Correctional Service of Canada (CSC) is a federal agency which runs federal penitentiaries and the post-release supervision of federal offenders in the community. However, for the sake of clarity, issues specific to post-release supervision will be dealt with later under "Parole".

Concern about corrections involves several main issues, along with numerous smaller ones. The main issues could be characterized as follows: confusion about the objectives and mandate of corrections; the friction created by the federal/provincial split in jurisdiction in corrections; concern over the growth in costs and use of incarceration, along with concern about its effectiveness; and concern about potentially violent offenders' release from imprisonment.

The debate over the objectives of corrections has raged for decades and is likely never to be resolved, principally because corrections is asked, and likely always will be asked, to serve multiple and even conflicting aims which are inherent in sentencing and other factors. A sentence may be aimed at punishment, restitution or reparation, rehabilitation, deterrence of the general population, or incapacitation of those who are a continuing threat, or any combination of these. Even when a sentence is directed towards only one aim, it will often embody others as well, as in a sentence of imprisonment, which invariably has a painful or punitive aspect.

Although it is sometimes suggested that penitentiaries should cease trying to fulfill aims beyond punishment and incapacitation, the study team has concluded that the other efforts which go on inside the penitentiary (although some could be done more effectively and efficiently) are justified, and their abandonment would be irresponsible on government's part.

People who end up in prison present a multiplicity problems: 40 per cent are functionally illiterate; at least as many have a drug or alcohol dependency; and most have few marketable skills and a history of sporadic employment; many have learning disabilities, poor social skills, family problems, and low maturation. A few have severe mental

disorders but cannot be accommodated by the mental health system. Far from concluding that the effort to deal with these problems is a "frill" which cannot be justified in an era of restraint, the study team finds that discouragingly little is being done about these problems.

Instead, the use of incarceration is growing -- with attendant cost-increases -- while the development of meaningful programs both inside and outside prison changes very little. It now costs almost $200,000 to construct a single prison cell, and the annual operating and maintenance costs of prisons are staggering. Canada has, moreover, one of the highest incarceration rates in the western industrialized world. Our over-reliance on incarceration is a luxury which is quickly becoming difficult to afford. The study team has suggested some strategies for review by the Canadian Sentencing Commission, has developed proposals intended to cap the available prison bed-space (an action which may be suggested anyway by the aging of the baby-boom population) and has suggested the development of meaningful community-based programs which will provide a real alternative to imprisonment. In this effort, the federal government would be joined not only by the provinces (which administer community-based sentences) but also the private sector, which holds the best hope for creating the many diverse and specialized programs which are needed.

The federal-provincial split in jurisdiction in corrections has existed since 1842, and is both an "historical accident" and entirely arbitrary. In essence, the federal government imprisons and supervises after release all persons serving two years or more, and the provinces are responsible for community-based sentences and prison terms of up to two years less a day. This arbitrary split causes administrative duplication and overlap between the two levels of government. Perhaps more important, however, it causes inefficient and ineffective use of all resources by both levels of government, which wind up competing for staff, community services and private sector resources, as well as placing often conflicting demands on related social services (such as education, health care and housing) which are delivered mostly at the provincial level. The study team proposes that interested provinces or groups of provinces be allowed to assume full responsibility for all corrections within their borders, through the most appropriate mechanism (constitutional reform or delegation). Certain basic standards of human rights, programs and dates-of-release eligibility would be

assured through the federal criminal law power and through monitoring the spending of funds which would be transferred from the federal government.

An option which received less support was for the two levels of government to engage in greater exchange of services but retain the federal "presence" in running the penitentiaries. This sort of exchange of services is currently being pursued, as in the possible amalgamation of all community supervision services within one province.

Remission of sentence has become an issue -- in the federal system at least. It provides that an inmate who has been of good behaviour can earn a reduction of up to one-third of his/her sentence. Remission is intended as an institutional control tool and, for the most part, both federal and provincial correctional administrators support its continuation. To eliminate it altogether would increase the federal penitentiary population by an estimated 23 per cent. However, the public is justifiably concerned about the "automatic" release on remission of potentially violent offenders, and the study team concludes there should be provision to detain those relatively few demonstrably dangerous offenders in penitentiary until warrant expiry, regardless of any remission they may have earned. This proposal is in fact the subject of Bill C-67, currently in committee.

Finally, the study team made a number of proposals designed to reduce various inefficiencies in penitentiaries, all of which are under active consideration by CSC. The study team found the CSC to be an over-administered agency. Twelve per cent of its person-years are at national and regional headquarters rather than in the field. CSC should also begin using part-time employees in order to achieve savings in the large annual overtime budget. Some savings may also be achieved by combining certain functions currently carried out by staff on separate duty rosters and eliminating duplication and overlap between CSC and the National Parole Board, such as in "quality control" of the work of parole officers and in data collection and system maintenance.

The study team also identified numerous areas which seem suitable for further privatization, including community supervision, halfway houses, specialized treatment programs, and various administrative services.

CORRECTIONAL INVESTIGATOR

OBJECTIVES

The Correctional Investigator is an ombudsman for federal inmates who, acting on his/her own initiative or on a complaint from an inmate, may investigate and report upon the problems of federal inmates which come within the responsibility of the Solicitor General (i.e. excluding complaints about parole decisions).

AUTHORITY

By Order-in-Council under the Inquiries Act, Part II.

EXPENDITURES ($000)

	83/84 Expenditures	84/85 Main Estimates
Salaries and Wages	228.1	376.0
Other O&M	108.1	73.0
Grants & Contributions	-	-
Capital	-	-
TOTAL	336.2	449.0
Revenues	-	-
PYs	8	10

DESCRIPTION

The office of the Correctional Investigator was created in 1973 as a result of criticism of penitentiary practices, and most particularly in response to the Swackhamer Report recommendation for an independent body to review inmates' complaints. The number of complaints investigated has increased steadily from 782 in 1973/74 to some 1,300 to 1,700 in recent years.

The officers of the Correctional Investigator all work out of Ottawa and travel to the penitentiaries for the purpose of interviewing staff and inmates. Approximately $43,000 was spent on travel in 1983/84.

From time to time, the Correctional Investigator has been asked by the Solicitor General to conduct an inquiry into a matter of special concern. As an example, the

Correctional Investigator did an extensive investigation of the aftermath of the Archambault riot of 1982.

OBSERVATIONS

All of the provinces except Prince Edward Island, as well as many foreign jurisdictions (such as Australia, New Zealand, and Western Europe) have an ombudsman's office. Not surprisingly, jurisdictions have found that inmate complaints constitute a substantial percentage of the complaints received. In 1983/84, for example, 30 per cent of all complaints received in Ontario were from inmates.

From time to time, critics and persons holding the office of the Correctional Investigator have recommended that more be done to preserve its appearance of independence from government, such as through reporting directly to Parliament and being appointed for a term of years, rather than "at pleasure". Cabinet considered and approved proposals by the Solicitor General in 1985 to achieve this greater independence through the specific creation of the office in statute, the articulation in statute of the powers of the office, the creation of a five-year renewable term, and the duty to report annually to the Solicitor General who must table the report as submitted to Parliament. A draft bill reflecting these decisions has not yet been tabled in Parliament.

The Correctional Investigator may (and usually does) refuse to investigate a complaint until the inmate has "taken all reasonable steps to exhaust available legal or administrative remedies". For federal inmates, these remedies may include the CSC's internal Inmate Grievance Procedure, "privileged correspondence" to such persons as the Solicitor General or other MPs, and redress through the courts. Because of the limited availability of the latter two remedies, the Correctional Investigator typically awaits only the outcome of the inmate grievance procedure before acting. The inmate grievance procedure permits inmates to submit written complaints through various initial and appeal levels, beginning with the division head of the penitentiary unit involved and ending with the commissioner.

A similar inmate grievance procedure was originally proposed by the 1977 Parliamentary Sub-Committee on the Penitentiary System, but certain key elements in the sub-committee's model were altered before it was implemented across CSC. Briefly, the sub-committee's model is based on

mediation. An inmate grievance coordinator helps inmates articulate their grievances in writing and ensures that time limits are met at all levels. He/she first tries to mediate an informal solution between the inmate and the party being complained about but, if mediation fails, the grievance is referred to a staff-inmate grievance committee, which in most jurisdictions typically agrees on a solution. If they do not agree, the grievance is then referred to an outside mediator for an opinion. Then, it goes back to the warden, whose decision is final unless the grievance involves policy which the warden does not control, in which case the commissioner also serves as an appeal level. In the California Youth Authority, where this model originated, it has been found that binding arbitration (with provision for some exceptions) works at least as well as mediation at the outside level. In CSC, the Inmate Grievance Coordinator is usually a clerk, conducts no mediation and has no authority to enforce time limits. The staff-inmate grievance committee is in operation in only about half the maximum- and medium-penitentiaries. An outside review board is called upon in less than 0.01 per cent of cases. Where the sub-committee recommended a time limit of six weeks from complaint to the final appeal level, three to four months is the norm in uncomplicated cases.

The Correctional Investigator does not feel the inmate grievance procedure should be abolished, largely because of concerns about workload and allowing the system a chance to resolve its own problems before an outsider is consulted. However, concerns about the effectiveness and timeliness of the inmate grievance procedure have been expressed in many quarters. This is especially true now; CSC has recently reduced the person-years for the Inmate Affairs Division in Ottawa from 12 to six and has provided that only those grievances involving significant policy issues should reach the commissioner's level. This seems likely to reduce the real and perceived influence of the division.

ASSESSMENT

The 1977 Parliamentary Sub-Committee on the Penitentiary System called the Office of the Correctional Investigator "a small response to a very large problem". That description is probably still apt today. The sub-committee recommended that the role of the office be reviewed in two years; no review has been done.

Overall, the office is assessed as being effective at resolving some types of inmate complaints and it is better than having no independent investigator, a situation which would lead to increased inmate frustration.

However, like the Parliamentary Sub-Committee, the Correctional Investigator assesses the problems of the penitentiary system as "too big to be amenable to solution" by one Correctional Investigator and his/her staff. An improvement in the administrative remedies available to inmates before resort to the Correctional Investigator seems essential to greater effectiveness in the view of the study team.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the status quo.

   This option has the advantage of providing some redress for legitimate complaints and the disadvantage of being too slow and inadequate to the task.

2. Internal improvements to strengthen the administrative remedies which inmates should exhaust before resorting to the Correctional Investigator. The inmate grievance procedure should be revitalized to conform more to the model described by the 1977 Parliamentary Sub-Committee.

3. Table a bill incorporating the changes approved by Cabinet to enhance the independence of the office of the Correctional Investigator.

CORRECTIONAL SERVICE OF CANADA

OBJECTIVES

To protect security by exercising effective and humane control of offenders sentenced by the courts, while helping them to become law-abiding citizens. In short, to provide custody, care and control of sentenced offenders.

AUTHORITY

The basis for the operation of the Correctional Service of Canada (CSC) is the Constitution Act 1867, the Criminal Code of Canada, the Penitentiary Act and Regulations, the Parole Act and various international agreements. It operates under the Ministry of the Solicitor General.

DESCRIPTION

The CSC operates 41 custodial institutions which are classified at all different levels of security, throughout the country. It also operates 21 smaller halfway-house facilities known as Community Correctional Centres. In addition, it is responsible for parole supervision, and delivers this service through a network of 75 district offices.

The work of the CSC is carried out in the various institutions, district offices, five regional headquarters and at national headquarters in Ottawa.

With a total of 18,300 offenders, either in institutions, on parole, or under mandatory supervision, the work of the correctional service is labour-intensive, and utilizes some 10,727 person-years.

The operation of such a large organization is complex, and several functions and activities are assigned to specialized branches and sub-departments which plan, budget, control, monitor and implement various sub-programs within the organizational framework. Examples of such activities are Education, Training and Employment; Security; Maintenance, Repair and Materiel; Food Services; Health Care Services; Parole and Mandatory Supervision; Offender Programs; Inspector General and many others.

BENEFICIARIES

In essence the CSC provides a program which is part of the overall criminal justice system, specifically a service that operationalizes both the ability of the criminal courts to impose prison sentences and the mandate of the National Parole Service to supervise released offenders. Therefore, the CSC provides a service to the people of Canada, in the provision of justice services.

Also, the offenders, who are involuntary clients of the program, can be said to be beneficiaries if they receive custody, care and control which assist them to function in a more positive, law-abiding way in society.

EXPENDITURES ($000)

	81/82	82/83	83/84	84/85	Estimates 85/86
Salaries & Wages	305,805	334,626	369,615	404,092	429,702
Other O&M	138,933	153,598	166,600	202,027	195,944
Capital	54,344	66,188	114,675	132,464	168,769
Grants	1,071	1,061	212	223	390
Contributions	156	354	817	1,083	1,027
TOTAL	500,309	555,827	651,919	739,889	795,832
Revenues	14,440	19,011	17,286	24,832	30,875
PYs	9,973	9,958	10,233	10,727	11,105

OBSERVATIONS, ASSESSMENTS AND OPTIONS

Because of the size of the Correctional Service of Canada and the diversity of its activities, the study team has grouped its observations about CSC under the substantive headings which follow. Parole supervision issues, however, are covered under the National Parole Board program profile.

SPLIT IN JURISDICTION IN CORRECTIONS ("TWO-YEAR RULE")

DESCRIPTION

The BNA Act states that the federal government is responsible for running "penitentiaries" and the provincial governments for "prisons". These two terms are defined in the Criminal Code, Penitentiary Act and Prisons and Reformatories Act such that a "penitentiary" holds persons serving sentences of two years or more, and a "prison" holds persons serving less than two years. As part of their constitutional responsibility for the administration of justice, the provinces also administer all community-based sentences, such as probation. The federal government, however, conducts parole supervision of federal offenders in the community after release. This basic split in federal-provincial responsibility in corrections is complicated by numerous refinements: most notably, the three largest provinces have their own parole boards for making early release decisions about provincial prisoners, and operate their own parole supervision programs. However, for federal inmates and provincial prisoners in the remaining provinces and the territories, the federal government does both parole decision-making and parole supervision (at no charge to the provincial governments concerned). The temporary absences occasionally granted to incarcerated persons are, by contrast, without exception administered by the government which houses the individual. Clemency (pardons and the purging of criminal records) are the exclusive responsibility of the federal government.

There is universal agreement among federal, provincial and private sector representatives that the two-year rule is entirely arbitrary, and a constitutional anomaly. Further, it creates practical difficulties which impede effective service delivery and efficient administration. Both federal and provincial governments operate programs of imprisonment and programs of community supervision of offenders. Both systems must bear the attendant administrative and other overhead costs associated with their service delivery. The two levels of government often end up competing in an unhealthy way for staff, community services and private sector resources. Since the great majority of related social services (education, health care, housing, etc.) are largely delivered at the provincial level, there are problems of planning and coordination created by two levels of government, placing often conflicting demands and priorities upon these services. Both levels of government

have offenders who present similar needs - such as for alcohol dependency treatment - but the opportunities for sharing of programs and facilities have (at least to date) been limited by the logistical problems inherent in inter-jurisdictional transfers. The same has been true of the sharing of resources for offenders in both jurisdictions who present security problems, or who need and wish to be housed close to their home communities.

Despite these difficulties, and despite federal/ provincial discussions on changing the split, which have occured periodically since 1887, the rule has remained. This has partially been the result of differing financial capabilities at the provincial level, and partially the result of lack of political will in various jurisdictions. Over the decades, there have also been differing vogues in the perceived best alternative to the two-year rule. At varying times, proposals have been made for a "six-month rule", a "five-year rule", total provincial delivery, total federal delivery, joint delivery, and a split along carceral/non-carceral lines.

The study team discovered that, at the provincial officials level, there was for the most part strong interest in taking over correctional services currently operated by the federal government, providing that adequate financial compensation would be made available. A few provinces supported provincial takeover, but had reservations which appeared to stem largely from concerns that federal funding would be or become inadequate. A number of provinces saw hope for better coordination in the recent discussions initiated by CSC for greater exchange of services between governments.

It should be noted that the new Commissioner of Corrections has recently begun discussions with each province on a new generation of Exchange of Service Agreements (ESAs). These ESAs are intended to allow sharing of certain correctional resources by both levels of government, and to renegotiate the traditional federal position on s.16(1) of the Penitentiary Act and transportation of federal inmates. For example, Alberta has a number of empty prison beds which it would like to see filled with federal inmates; other provinces facing the possibility of new construction are seeking capital contributions from the federal government, in exchange for a reserved number of beds for federal inmates. In many provinces, one level of government will be seeking to make

greater use of the services of the community supervision personnel of the other level of government.

The major issues involved therefore appear to be:

a. Effectiveness. Would change (in whatever direction) involve significant improvements in the rationalization of resources, in coordination between correctional and other social services, and in planning and effective delivery of programs;

b. Costs. What principles should attach to any transfers of funds between governments which might be implied in a change in the split? What would be the best mechanism for funding? How closely monitored should the spending of such funds be? As a general principle, the study team believes that no change in the split should cause any level of government to incur additional costs which are not reimbursed by the tranferring level; and

c. Standards. Regardless of which alternative option is chosen, should national standards in corrections be a goal, and if so, how should they be enforced? The study team is of the view that the federal government retains the responsibility (by virtue of the criminal law power) to establish and maintain standards of human rights, programming and sentence mitigation, regardless of any change in service delivery responsibilities.

OPTIONS

Provincial officials appear now to believe, and the study team agrees, that there would be no value in replacing one arbitrary rule (the two-year rule) with another arbitrary one (such as a six-month rule). The study team therefore recommends to the Task Force that the government consider the following:

1. Exchange of services; No possibility of total provincial delivery:

   This option has the advantage of expending no effort on negotiations between the federal and provincial governments on developing a new split. It would, however, involve further joint efforts

to make the most effective joint use of new and existing resources, through renewed ESAs. The value of these new ESAs, however, remains to be seen, since they are still largely at the negotiation stage. Further, while they will address some questions of resource sharing, they will necessarily not deal with the larger difficulties presented by the split. ESAs are entirely dependent on continuing good will among all parties.

2. Total federal delivery.

This option would remedy the difficulties of fraction of service and programs, but would increase the size of the federal public service by some 12,000 employees. It would not be acceptable to certain provinces. It would not remedy, but could conceivably worsen, the problems of coordination between corrections and other social services, delivered largely at the provincial level.

3. Total provincial delivery in interested provinces.

This option is apparently most attractive to the provinces themselves, at least at the officials level. It would involve a cooperative federal stance which would allow interested provinces to assume full responsibility for corrections within their borders, but not force other provinces to follow suit. There would be, as mentioned above, national standards established through the criminal law power, and monitoring by the federal government of the use of funds transferred to the provinces for carrying out operations previously handled federally. This option carries the best promise of coordination between police, courts and corrections and between corrections and other social services; of reducing total overhead in corrections across Canada; of encouraging regional and local innovation; of dealing with the offender at or near his or her local community (considered the best prospects for successful reintegration of the offender); and, of making the most effective use of programs for offenders who need them most.

4. Joint classification and placement.

Under this model, both levels of government would maintain their own separate operations in much the same manner as now, but through a joint board of classification, would decide where the offender should serve his/her sentence, in either jurisdiction. This model holds the possibility of achieving some further rationalization in the placement of offenders to the facility best suited to them. However, the practical difficulties to this model seem enormous. Both levels of government will be interested in keeping their populations (and therefore costs) to a minimum, and neither level will wish to have charge of the difficult, disturbed, or risky offender. The joint classification board will need to convene for decisions about transfers following initial placement, and this will involve lengthy delays, longer than the offender's total sentence in some cases. Some offenders will move constantly from one level of government to another (with resultant chaos), or will never move at all, as a consequence of failure of the two parties to agree. There will be no clear lines of parliamentary accountability for highly publicized failures, such as escapes of inmates placed in lower security than needed.

PRIVATIZATION OF CORRECTIONAL FUNCTIONS

DESCRIPTION

At present, the private sector is heavily involved in certain areas in federal corrections, but very little or not at all in others. The area of heaviest involvement is the post-release supervision area, where the voluntary sector (such as the John Howard Society and the Elizabeth Fry Society) supervises large numbers of offenders after release and conducts community assessments (CAs) on large numbers of offenders prior to decisions regarding early release. In addition, about half the medical and dental staff in CSC, and all the major surgical functions, are privatized through personal service contracts. Most educational instructors are private-sector also, hired through contracts with existing educational institutions, while most vocational instructors are CSC employees.

CSC operates 21 halfway houses across the country -- Community Correctional Centres (CCCs) -- but also contracts for bedspace on a per diem basis with some 160 privately owned and operated halfway houses and Community Residential Centres (CRCs). The design and construction of new penitentiaries is also largely privatized, through contracts written by the Department of Public Works. In addition, services such as chaplaincy, fire protection and refuse removal are almost entirely privatized.

Various issues are critical to decisions about privatizing corrections further. Among the key issues are:

a. Costs: Although a few areas seem to lend themselves to cost-saving through privatization, thers which have traditionally been cheaper when delivered privately (such as parole supervision and CRCs), may not continue to be cheaper for much longer. The savings in these areas have come largely from lower overhead costs, much lower salaries in the private sector and limited programming and staffing. Pressures for increased accountability, the fallout from isolated tragic incidents, and the increasing reluctance of the non-profit sector to deliver a restricted service for low wages are, however, beginning to reverse this historical trend. In Ontario, for example, correctional administrators report that CRC costs

are now approaching or exceeding those of certain comparable government-run services.

b. Delegation of peace officer powers: There is concern about delegating peace officer powers to the for-profit sector especially in higher-security correctional environments, which are inherently coercive. Early U.S. experience with higher-security private prisons suggests that governments will be held fully liable in the event of alleged negligence in the use of force by private contractors, especially if government has not established and monitored compliance with extensive standards regarding recruitment and training of staff.

c. Competition: Even in the much larger U.S. market, the number of private suppliers of correctional services remains small. This leads to concerns about government's ability to ensure compliance with standards and replace unsatisfactory suppliers.

d. Enforceable standards monitoring and control: As suggested, extensive standards and government review of some private correctional operations seems necessary, and may lead to higher, not lower, overall costs. Detailed standards will be especially important because government guidelines on master-servant relationships in contracted services will preclude CSC giving ongoing direction to the contractor on a daily basis; and

e. Protection of former civil servants: CSC employees should be given priority in hiring by private contractors and an opportunity to incorporate and bid on contracts for service delivery.

OPTIONS

The study team recommends to the Task Force that the government consider the following for privatization or further privatization:

1. Food services.
CSC employs 296 staff, at a salary cost of $11,037,604, to manage and carry out food service activities. In addition, 1,410 inmates work in food preparation and about 400 inmates work on CSC farm annexes which supply food. Experience in other jurisdictions suggests that costs can be reduced by at least 10 per cent through privatization of staff duties, with no attendant reduction in quality of service. CSC is actively studying this area for privatization, among many others.

2. Education and vocational training of inmates.
CSC employs 299 persons, at a salary cost of $12,569,337, to manage and deliver academic and vocational training to inmates. In addition, some $12 million is spent on contracts for educational and vocational training with outside institutions. Experience suggests that further privatization of these services would not be less expensive overall, but does improve the quality of the training received because burnout is less likely under a privatized system where staff turn over more frequently.

3. Employment of inmates.
In 1984/85, there were 6,574 inmates employed while incarcerated in CSC institutions, excluding the 1,575 engaged in education or vocational training. The majority of employed inmates (56 per cent) work at institutional maintenance, clerical tasks, food production, etc. Some 18 per cent work at jobs related to offender programs. About 16 per cent work in prison industries, including automated data processing. Only about 400 inmates (or 6 per cent) work (typically at minimum wage) for outside industries operated by private enterprise. This number has remained stable for many years, despite periodic drives to attract more outside employers to CSC industries, or to establish their own industries, using CSC inmates as employees. The benefits of doing so are obvious: it reduces CSC costs in inmate pay and O&M, while allowing the inmate to pay taxes, family support, higher room and board, and to save more towards eventual release. For these reasons, further efforts to attract private employers to CSC are to be encouraged.

Unfortunately, various factors inherent in the penitentiary environment minimize its attractiveness to private industry: the hostility and low productivity of inmate-workers cause inefficiencies and delays in shipping and receiving; the security risks presented by inmates require (among numerous other problems) much higher-than-average supervision costs; the remoteness of many institutions causes excessive freight and other operating costs; and the hostility of unions and the general public to industries which benefit from such arrangements makes them unattractive. Currently, CORCAN (the CSC industries program) loses about $10 million annually, and sells almost exclusively to Supply and Services Canada. Despite the publicity surrounding efforts in the U.S. to establish "factories within fences", as of January, 1985, there were only 26 such projects in the U.S. employing less than 1,000 prisoners, or about 0.2 per cent of the total U.S. prison population.

4. Health care.

CSC is currently preparing pilot projects to privatize entire health care units in six penitentiaries, rather than merely contracting with individual medical officers. Other jurisdictions report improved and more diversified health care from this approach, but it is expected to be more expensive overall.

5. Community-based services.

Although no precise workload figures are available, CSC already contracts with the non-profit sector for large numbers of community assessments (CAs), parole and mandatory supervision services and halfway-house residential services. For the most part, because of lower wages and overhead in the non-profit sector, these services have been and still are cheaper than the comparable CSC-provided service, although (perhaps for that reason) there are some in CSC who believe that the quality of the privately delivered service is poorer and that there is insufficient accountability. Some of the provincial governments operate no halfway-house facilities

(CCCs) of their own, but rely entirely on private CRCs and are satisfied with the arrangement. Because of limited capital in the private sector, CSC should examine the feasibility of leasing existing CCC facilities to the private sector and contracting with them for the running of these facilities.

All of these services (CAs, CCCs and supervision) seem suitable for further seem suitable for for further privatization, given the private sector's greater potential for delivering specialized and diversified service, providing that sufficient funding is made available. In order to ensure stability of programs, consideration should be given to block funding instead of fee-for-service for residential facilities.

6. Private penitentiaries.

These must be distinguished from halfway-house facilities, in that penitentiaries are of higher security and both require and exercise coercive powers such as search and discipline. In the U.S., the recent establishment of private prisons in some jurisdictions has been caused by massively overcrowded prisons, in combination with the difficulty of capitalization through public bond issues. In Canada, neither situation pertains, and it appears prudent to avoid privatizing penitentiaries until more experience in the U.S. can suggest answers to vital questions about greater or lesser costs, programming, the usefulness and costs of standards and monitoring, and the use of peace-officer powers by contractors. In the meantime, Canada should maintain a watching brief on private penitentiaries and be free to experiment with limited pilot projects.

7. Technical services.

As noted earlier, numerous services in this area are already contracted-out. In addition, transportation and fleet management, inventory control and warehousing would appear to be suitable for privatization.

8. Administration.

Numerous administrative services are suitable for further privatization, including staff training, publication, employee cheque issue, inmate pay, certain routine audits and certain coordinated information services.

EFFECTIVE STAFFING MODEL FOR CSC

DESCRIPTION

With more than 11,000 inmates in federal penitentiaries and projected increases in future years, questions regarding the building and staffing of prisons and the effective deployment and utilization of staff resources, will have a significant impact upon CSC budget costs.

The most appropriate point of departure to examine these issues is to review the objectives and goals of the organization. Therefore, the mission statement developed in the Ingstrup Report of November 1984 is of interest:

> "The Correctional Service of Canada, as part of the criminal justice system, contributes to the protection of society by exercising safe, secure and humane control of offenders, while helping them become law-abiding citizens."

Initiated under the terms "safe", "humane" and "helping" are a host of integral programs intended to operationalize them. These include: employment programs; leisure-time activities; security; special needs; family and community; placement; and, transfers. The security program has the most pervasive presence and major overall impact upon the inmates of penitentiaries.

In providing security coverage at various posts and activities, four operational models have been identified as methods of security staff deployment. These are: the squad system; the living unit system; the team concept; and the functional unit management system.

The squad system is a basic staff deployment practice that was derived, apparently, from a semi-military tradition from the very earliest years of the penitentiary service. The security personnel are organized in squads, ultimately responsible to the Assistant Warden, Security. Each squad has a leader (CX-COF-6/5) and a number of intermediate supervisors (CX-COF-4/3).

The deployment of correctional officers to shifts and posts is done on an individualized basis. Thus, different

leaders and supervisors can be assigned and there is apparently no team integrity of supervision. Staff are assigned according to the requirements of the shift roster.

The living unit system was the outcome of the gradual development of theory and practice in the human services and behavioral sciences field. Some experimentation with institutional design was undertaken and innovations in program design were formulated, based on the therapeutic community model, utilizing small group dynamics. By 1971, a living unit divisional instruction was issued; a handbook entitled "The Living Unit Program" was published in 1972.

The living unit system was designed to assist inmates to become better citizens by designing a milieu that was conducive to improved social adjustment, by improved communication between staff and inmates.

The objectives were to create positive staff-inmate relationships, foster a sense of responsibility towards self and others, promote learning of social skills and provide the necessary degree of dynamic security. The living unit system was designed to integrate security and program activities in a more positive environment.

The team concept was developed through a search for alternative approaches to the management of correctional facilities during the 1960s and 1970s.

The basic rationale was that the security staff should get to know the inmate, thus improving dynamic security by being able to better predict inmate behaviour and to assess program requirements. Correctional staff were to be divided into two groups, correctional or security, based upon capability and interest. The correctional team would work directly with inmates; the security teams would work on perimeter posts and other non-inmate-contact posts. A team supervisor was assigned, and team leaders would rotate with their team on the same shift schedule.

Implementation commenced at Dorchester in 1974 and subsequently in other institutions. There was increased focus upon frequent contact and interaction between staff and inmates. This concept, however, gave way to a full rotation of all correctional officers through all posts because of apparent conflict between the two groups of officers. Once this happened, the principles of the team concept were breached. Team leaders no longer rotate on the shift with their teams.

The objectives of the team concept were to create constructive supervisor-employee relationships, increase accountability, maximize the guidance and counselling abilities of the supervisors. It was held that it would increase better security supervision and maximize effectiveness of the CX group. As indicated, elements of the team concept gradually eroded.

The functional unit management system came into existence during the 1970s in the Federal Bureau of Prisons, United States Department of Justice. It incorporates principles of decentralized management by accommodation units and is somewhat similar to the living unit system in that there is more interaction between inmates and the staff who make decisions. The program is delivered by a unit manager along with case managers, counsellors, educators and clerical staff, all assigned to and present, in the housing unit. The Federal Bureau of Prisons has adopted this model in all its institutions. The old hierarchical structure is removed and there is better contact between inmates and staff. The units contain inmates who are permanently assigned together and a multi-disciplinary staff unit provides the program services, including security correctional officers. The unit manager has administrative authority and responsibility for the unit.

An evaluation study undertaken in September 1983 had as its objective a cost-comparison of the four models, by costing out the various options and staffing levels, by means of an organizational simulation exercise conducted at 10 penitentiaries.

In order to carry out this evaluation, an effort was made to assure the benefits which each model would be seen to provide. Benefits were defined to reflect desirable outcomes which seemed to reflect the factors in the mission statement quoted above (e.g. "ensures required degree of safety and security for public, staff and inmates" also "sustains a normalized regime" and "promotes effective utilization of available human resources").

The outcome of the study was that eight of the 10 simulation exercises showed the squad system to be a less expensive model for such elements as security, case management and social programming. Two institutions sampled indicated that the living unit system would result in less

costs. However, the report indicated unique features in these institutions that would limit any generalization of the findings.

The team concept did not offer any potential savings, nor any significant benefits, as it has evolved.

The functional unit management system was not able to be costed out in the exercise, as it had not been in place previously in any Canadian penitentiary and there were methodological problems in applying a simulation exercise to this model.

The living unit system appears to address a greater number of benefits, not only in security, but also in the area of preparation of the inmate for release within a more normalized environment and the promotion of staff/inmate interaction. Therefore, it is asserted that it comes closer to the aims and goals set forth in the mission statement above.

In summary, the results of the study undertaken indicate that no single model is both the least expensive and the most beneficial. It is difficult to place a specific cost on intangible factors such as better staff-inmate interaction, normalization of environment, more direct observation and control of inmates, more involvement of staff in various functions which maintain job interest, and staff morale.

Based on the exercise, the staff establishment required to operate a medium security institution on a living unit model would utilize five person-years more than that required for a squad system. This would save $249,940 for an institution of this type and size, although the figure will vary with different institutions.

Some of these factors lead, in turn, to decreases in negative institutional activities. Inmate assaults tend to decrease, and there is less reason to classify inmates as "protection cases" and transfer them to special units. However, the living unit system is not necessarily the most effective or appropriate model for all institutions, especially the higher security institutions. There is an indication that some living unit officers tend to be subject to the work-stress syndrome (burnout) if assigned to living units permanently, in some institutions.

There are also now two institutions using a form of functional unit management and this model should, the study team believes, be evaluated and compared in terms of costs and results in the following months.

At this time, there are no definitive data as to the specific efficiency or effectiveness of the different staff deployment models. Further comparison and analysis of benefits should be carried out in this area in the view of the study team.

It is clear that building very large penitentiaries, and staffing them with minimal staffing levels or program opportunities is not a desirable alternative to the models now in existence. The CSC has a heavy responsibility for the safety and security of inmates in its charge, as well as a responsibility to provide opportunities for inmates to improve themselves.

Any minimally staffed "warehouse" model, which could lead to increased inmate assaults, deaths and restiveness, costly riots, and public criticism as inhumane or unconstitutional, is considered by the study team to be a false economy, both from the standpoint of the financial costs of the above-noted problems and the financial and human costs of its impact on successful post-release reintegration.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Continue to utilize the living unit system but enlarge the potential size of the units to accommodate more inmates. This would obtain economies of scale and offset some of the increased staffing costs. However, an increase in the number of inmates imprisoned in such a unit could reduce or eliminate completely the benefits outlined previously for this model.

2. Continue to monitor the benefits and factors involved in comparison between living unit and squad models and authorize further construction of institutions in regions as required, based upon needs and the most advantageous configuration, as perceived by the senior management group that would operate the institution.

3. A review of the feasibility of achieving staff savings by combining certain staff rosters related to offender programs and case management in a modified living unit model could be undertaken (see "Administrative Efficiencies in CSC.").

USE OF PART-TIME EMPLOYEES

DESCRIPTION

The operation of Canadian prisons and penitentiaries in provincial and federal jurisdictions, as well as those of other nations, generates a high level of costs in overtime wages. Although there are overtime costs generated by technical and support staff on a minimal level, the major portion in the CSC is generated by the security program. There are a certain number of security posts that must be manned by correctional officers. If staff are absent due to sickness, training programs, annual leave, or if there is an incident requiring deployment of additional security staff, overtime costs are liable to be incurred.

Under current arrangements, person-years are allocated to make provision for substitute officers to cover some of the absences. However, in a December 1981 report on overtime, it was acknowledged that a reasonable level of substitution could not likely be guaranteed in most institutions. This was because of organizational requirements such as the "step-down" rule, grouping requirements for training and fractional distribution of person-years. It is also indicated that extra person-years allocated are often utilized in the creation of new operational posts. Increasing person-years for relief purposes only does not lead to a proportionate decrease in overtime.

The costly problem of overtime, for example, the $24.5 million expenditure for 1981/82, could be addressed by using indeterminate part-time officers instead of calling in shift staff, the study team believes. If regular (full-time) officers assigned to a shift have to be called in for some special duty, or to replace other regular staff who are absent, they will generate overtime costs. Often the rate of pay is at double-time rather than the regular overtime rate of time-and-a-half. This factor is governed by whether an employee is on his/her first-day-of-rest or on a statutory holiday.

It has been pointed out that many employees are unwilling to work overtime at the lower rate. In 1980/81, an overall average of 22 per cent of 900,000 regular overtime hours was paid at double-time rate. In some institutions, this percentage was as high as 40 per cent.

The fundamental question is whether the use of part-time officers would substantially reduce high overtime

costs. Issues involved are those of training requirements, employee fringe benefits, the CX collective agreement, the Public Service Superannuation Plan and sources of recruitment for part-time staff.

The advantages of using part-time correctional officers are that they can be scheduled to work specifically during peak periods, and their availability provides more flexibility in scheduling holidays and training for full-time staff. Overtime costs are reduced when part-time staff are scheduled to fill extra shifts. Use of this method is also assumed to be less costly and more effective than the full-time, substitute-officer system. Less overtime reduces fatigue and stress for full-time workers. Availability of a pool of call-in, part-time officers also produces a larger manpower inventory to be drawn upon in cases of emergency.

However, in the view of the study team, there are some negative factors to be considered. Administration overhead for part-time workers is higher, because the cost of recruiting, hiring, training, benefit administration, record-keeping and clothing must be written off against fewer hours of work. Part-time workers tend to be more difficult to supervise and appraise and add to the general supervision workload. Fringe-benefit costs are higher per hour worked for part-time employees. Objections and resentment by full-time officers to part-time employees could cause dissension in the workplace. If overtime is significantly reduced, full-time staff morale may be affected by the smaller income.

In 1984, some $21,693,692 were spent for the overtime performed by correctional officers. In a draft report submitted in October 1985, potential savings were identified if a system of part-time officers were used to replace either some full-time or substitute-officer positions, and also utilized as an officer call-in capability for unscheduled absences. The savings generated could amount to:

- $5,544,848 (some full-time position replacement) with a potential to generate work up to an additional 16 hours per year; and

- $5,544,848 (replacing the substitute-officer plan).

Additional savings of $3,071,862 could be generated by using part-time staff on a call-in basis.

Although implementation of part-time correctional officers would be cost-effective, it could cause some problems. Gradual conversion of full-time positions to part-time positions could take from three to five years. Some institutional use of substitute officers in the intervening time may be required. The program implementation would also depend upon successful negotiations between the union and Treasury Board; it is expected that the union would strongly oppose the implementation of part-time correctional officers.

OPTIONS

The status quo would avoid protracted negotiations with and resistance from the union, which is adamantly opposed to the use of part-time officers and seeks to have an inhibition upon any part-time CX position negotiated into its next contract. In addition, leaving the situation as is will avoid any short-term need for an increase in substitute person-years. However, the status quo option would continue the high cost of overtime.

The study team recommends to the Task Force that the government consider implementing an indeterminate part-time program. It is suggested that this be initiated on a pilot-basis at one institution and then expanded in that region and others.

FEDERAL/PROVINCIAL RESPONSIBILITIES UNDER 16(1) PENITENTIARY ACT

DESCRIPTION

The Penitentiary Act stipulates that an offender sentenced to a term of two years or more "... shall not be received in a penitentiary until after the expiration of the time limited by law for an appeal". This provision was apparently designed to ensure that the inmate was kept close to his or her counsel during the period immediately after trial. The inmate has 30 days to decide whether or not to lodge an appeal. When first issued, this section had some merit as there were only seven penitentiaries in Canada; the telephone and airplane were not in use and mail service not as swift or regular.

OBSERVATIONS

A case could be made that when an inmate is sentenced to over two years and becomes a federal inmate, any costs of accommodation or transportation should be borne by the federal agency, according to provincial officials. There is concern about the inmate sentenced to a lengthy term in the penitentiary, possibly in a maximum security institution, having to stay for a month in a medium/minimum security facility. These cases require a high level of security once sentence has been imposed.

With regard to transportation, the penitentiary inmate is transported under escort of bailiffs, RCMP (Provost) or provincial deputy sheriffs and the contention is that the federal government should bear these costs.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. The Penitentiary Act could be amended to state that any federal inmate, with a sentence of two years or more, would be allowed seven days to instruct counsel as to the decision to appeal. The inmate could then be transported to the penitentiary and have further time (23 days) to consider the matter.

The CSC is perceived as using the 30-day period to undertake an assessment/penitentiary placement recommendation. Although this is a useful process, it should not necessarily entail a 30-day period. The CSC could absorb the costs of keeping the inmate for the seven days, as above. If more time is needed for assessment, a request to hold could be made and the additional days added to the cost. If the provincial institution has a concern about keeping a particular inmate, the person could be moved to the closest penitentiary, after seven days, for appropriate security level custody.

2. The inmate's right to consult with his or her lawyer should be recognized in regulations and telephone access granted appropriately, at the penitentiary.

3. Maintain the status quo whereby the provinces reluctantly keep federal convicts and receive no financial acknowledgement for this service or for transporting them to penitentiary.

4. In the context of negotiation with the provinces, the CSC could assume financial responsibility for offenders sentenced to a federal term from the date of sentence, regardless of the offender's appeal status, or waive of appeal.

A preliminary forecast in 1982, (adjusted to 1985 costs), would put the cost of this option as follows:

	Full Cost	Marginal Cost (33%)	Marginal Cost (17%)
Additional offender maintenance costs (1982 Ministry figures adjusted).	$8,553,000	$2,823,000	$1,454,000
Transportation and escort costs to admitting institution for 84/85 ($60/inmate admission X 4,341 admissions)		$ 260,000	

5. The cost of transporting revoked parolees from the provincial centres to the penitentiary could be acknowledged and borne by the CSC. At the present time, Ontario receives an agreed amount ($10,000) for this service. This item would need to be costed out and funds allocated to the provincial systems for carrying out this task with federal offenders.

EARNED REMISSION

DESCRIPTION

Earned remission was established in the nineteenth century, and its current enmeshment with "mandatory supervision" is previously discussed.

The revision to the Penitentiary Act (1978) abolished "statutory remission" and established that an inmate could earn up to 15 days remission for every month served up to one-third of the total sentence.

The system of earned remission has been fraught with the administrative difficulties of applying the intention of section 24(1) Penitentiary Act, in which it is stated that an inmate may earn 15 days if he/she "applies himself industriously".

Subsequently it was decided that "apply himself industriously" is, in fact, "satisfactory" performance, and would earn the maximum 15 days' remission. To reduce bookkeeping load and simplify the recording and sentence administration aspect, every inmate is automatically credited with the 15 days, and adjustments are made retroactively if remission days are "lost".

The intended benefit of earned remission is that it encourages the inmate to work industriously, to be of good behaviour and to aim at self-improvement. The existence of such an inducement provides a management tool which assists staff in obtaining cooperative behaviour from inmates. However, some feel that the problem of administering the earned remission program is that remission is credited automatically, and is not as effective as it could be in motivating inmates to work hard and behave well.

One of the issues connected to remission is that of the premature release of a dangerous offender prior to the actual termination of sentence. If all offenders can earn remission, then dangerous offenders can be released early. If certain, offenders cannot earn remission, then who decides which ones?; and, would this reduce the efficiency of remission as a prison management tool?

The remission program is administered through Sentence Administration, and the operation of the disciplinary panel and/or the issuing of performance notices (PN) by various staff to inmates. There are no specific costs attached to this program, as the functions are carried out by case managers, sentence administrators and others.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the status quo. A system with some perceived defects would be continued in operation, although it would entail minimal disruption, and neither add to, nor decrease, inmate counts.

2. Abolish earned remission. There would be a minimal saving in staff administrative costs. An estimated maximum increase of 25 per cent in inmate population would ensue, with substantial additional costs. There would also be the loss of a tool for encouraging positive inmate behaviour. However, no dangerous offenders would be released prior to the end of their sentence.

3. Modify the legislation to reflect differentiation of remission by security level. This could tend to motivate inmates to positive behaviour in order to obtain lower security classifications. It could thus assist in a general "cascading" of inmates towards lower security and eventually out of institutions. It would be administratively very complex, and lead to increased grievances and litigation over security classification.

4. Use graduated performance levels to encourage more than satisfactory performance, along with a security level differentiation. This partially meets the concerns expressed about "high risk" inmates being released prior to termination of

warrant. However, they would still receive some remission. There are implications if mandatory supervision is, or is not, continued in operation.

5. Keep the current practice of two-thirds-of-sentence potential release date (with the inmate earning, or not losing, "points or marks") and having the institution notify the National Parole Board if an inmate is considered dangerous. Most inmates would thus earn a release, subject to supervision by the Parole Board, but the dangerous offenders would not be released until the warrent expiry date.

COSTS AND USE OF INCARCERATION

DESCRIPTION

The use of incarceration in Canada has become a concern on a number of levels. From 1945 to 1982, the number of persons incarcerated in federal penitentiaries has more than tripled. During the same period, provincial prison populations increased about two-and-a-half times. In 1984/85, the federal government spent $751 million on adult correctional services, and the provincial governments spent approximately $600 million on adult and $250 million on juvenile corrections. At the federal level, expenditures increased 23 per cent (in constant dollars) over the five-year period 1979/80 to 1983/84 and provincial expenditures increased 9 per cent. The great majority of these expenditures were on incarceration. Incarceration costs approximately 10 to 15 times as much, on average, as community-based correctional alternatives.
In 1983/84, there were 24,096 persons employed at the federal and provincial levels in adult corrections alone.

According to the best available international figures, Canada is a comparatively high user of imprisonment in relation to similar Western industrialized nations. The number of persons in adult prisons per 100,000 total population is 24.6 in the Netherlands, 43.0 in Japan, 63.3 in Australia, 66.7 in France, 85.1 in England and Wales, and 96.9 in Canada. Only the U.S. at 207.3 shows a rate consistently higher than Canada's. Our imprisonment rate is half that of the U.S. but our violent crime rate is only one-fifth of theirs.

At the same time as there are concerns about the costs of imprisonment, doubts about its value are also prevalent. In some jurisdictions, a majority of the jail population is made up of Natives or persons who are in default of payment of a fine. Correctional administrators consistently report that a large proportion of persons in their jails do not belong there in the sense that they are dangerous or have committed offences which can be punished adequately only by a sentence of incarceration. The Law Reform Commission concluded that there is an over-reliance on imprisonment in Canada and that prison is a "costly sanction that should only be used as a last resort".

It is likely that the high use of imprisonment in Canada is at least partially due to a shortage of meaningful

alternative sanctions and strategies. Too often, judges are left with an unpalatable choice between probation and prison, with no programs in between for dealing with such crime-related problems as drug and alcohol dependency, lack of job-finding skills and family violence. There is also a paucity of alternative punishments which are less costly and less debilitating than prison.

Prison populations are determined primarily by the number and length of sentences of incarceration and the rate of release from incarceration. The Canadian Sentencing commission has been appointed, as part of the federal government's Criminal Law Reform exercise, to examine key issues related to criminal sentencing, including maximum terms, guidelines for sentences and procedure. The commission is due to report in May 1986, but has asked for an extension until September 1986.

OPTIONS

Because of the nature of its inmate population there is little flexibility in the federal penitentiary system. However, there are some ways in which the total incarcerated population in Canada could be reduced. The study team recommends to the Task Force that the government consider the following:

1. A moratorium could be imposed on all new penitentiary construction at the federal level. Crime-trend data suggest there may be a levelling off or even a drop in prison populations during the 1990s as a result of the aging of the baby boom population. On the other hand, research also suggests that prison cells will tend to be filled if they are available; marked growth in prison populations follows periods of intensive building.

2. The Canadian Sentencing Commission could be directed to develop qualitative sentence guidelines which would:

    a. ensure no further growth, or even a reduction, in the total incarcerated population;

    b. require judges to give written reasons for imposing a jail term;

c. require the consideration of community-based alternatives prior to the imposition of a jail term; and

d. require judges to specify in each case the purposes to be fulfilled by each sentence of incarceration.

In this regard, the study team suggests that the Sentencing Commission also be asked to examine the Ouimet Committee's 1969 recommendation that sentences between six months and two years be abolished.

3. More of the existing research and development funds in the federal justice area could be directed towards establishing meaningful programs of community-based corrections. However, currently available developmental funds for all justice-related issues total less than $8 million. The study team feels that a program on the order of $100 million would be needed. Should the effort succeed, financial benefits could return to the federal government from reduced new capital construction and operating costs, provided that the provinces agree to house sufficient numbers of federal inmates in their own institutions.

4. If provincialization of correctional services is to be pursued, a cost-sharing formula could be explored which would provide greater proportional federal funding for non-carceral than carceral programs. (See "Split in Jurisdiction in Corrections".)

PAROLE

OVERVIEW

The remission of some portion of a penitentiary sentence as a reward for good institutional behaviour and to further the process of rehabilitation has been a valued feature of the Canadian justice system since before Confederation. In 1899, remission was formalized in the Ticket of Leave Act, and was administered until 1959 by the Remission Service. In 1959, the National Parole Board was established, pursuant to the Parole Act.

At present, there are four forms of conditional release administered by the Board: Temporary absence (TA), Day Parole, Full Parole and Mandatory Supervision (MS). Each has a distinct purpose. Temporary absence (whether escorted or unescorted) is used primarily for humanitarian reasons and eligibility is limited in the federal system to one 72-hour absence per quarter. Day parole, which usually requires the inmate to return each night to an institution or a halfway house, is commonly awarded when an inmate has been placed in a job outside the penitentiary as part of a resocialization program. Inmates become eligible for TA and day parole after serving one-sixth of their sentences. Full parole is used to release deserving inmates into the community, under the supervision of parole officers. Inmates become eligible after serving one-third of their sentence, and typically receive parole at about the halfway point. Mandatory supervision requires that inmates who have not been found suitable for full parole be released under supervision after serving two-thirds of their sentence.

Mandatory supervision is a controversial form of release. The rationale of MS is that it is better for the inmate and for society that he or she be released under supervision, and be helped by the parole service to reintegrate into society, than to be held until the end of the sentence and then released into the community without assistance. Unfortunately, offenders on MS frequently fail to succeed and are returned to penitentiary. On rare occasions, offenders on MS commit additional crimes, and the attendant publicity brings the entire parole process into disrepute because the public does not understand that the law, not the National Parole Board, caused the release.

Because of public concern, the power to "gate" certain offenders has been included in Bill C-67, which is now

before Parliament. Under this provision, an inmate judged too dangerous to be released can be rearrested at the prison gate after release on MS and held until expiry of his or her sentence. Given the difficulty of predicting violent behaviour by a given individual, however, the effects of gating cannot be foreseen.

In addition to spectacular parole failures, other serious problems exist. National Parole Board officials take the view that only they can decide on issues such as temporary absence and day parole. The board has severely restricted the TA authority of federal wardens which, in the wardens' view, has seriously reduced both the value of TA and their ability to effectively manage their inmate populations. Provincial corrections officials take the same view but they circumvent the TA provisions of the Prisons and Reformatories Act because it is essential to the management of their institutions.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Amendment of the Parole Act to achieve provincial objectives would enhance federal/provincial relations.

   The slowness of federal parole for short-term provincial inmates is also a problem which provincial officials alleviate by using TA. This is not a factor in Quebec, Ontario or British Columbia, the three provinces that have established provincial parole boards for provincial inmates.

   Amendment of the Prisons and Reformatories Act would also alleviate this difficulty.

2. The unfettered discretion exercised by members of the National Parole Board raises questions with respect to the possibility of disparity -- and therefore of inequity -- among parole decisions. Objective guidelines for decision-making exist and are used in other jurisdictions including the provinces, but not by the NPB.

A requirement for guidelines for all NPB-decisions, and procedural safeguards for inmates and parolees, would do much to resolve the doubt that the board, with many members nationwide makes equitable, comparable decisions across Canada.

3. The membership of the NPB is another area of controversy. It is widely believed that the overall calibre of the board has decreased in recent years because a number of less qualified, less knowledgeable, less well educated members have been appointed.

   This problem, whether real or imagined, could be resolved if the chairman and the members were nominated by a screening committee of senior federal, provincial and private sector officials who would base their recommendations on objective, relevant, established criteria.

4. The NPB also seems to be overstaffed, at least in comparison with the provincial parole boards. For example, the NPB has 36 national members, about 100 community members, a support staff of about 250 person-years and a budget of about $13 million. These resources are expended in making 25,000 decisions, which under the NPB best estimate, amounts to some 10,000 actual hearings. (The management information system cannot provide the necessary data.) The Ontario Parole Board, on the other hand, carries out 6,000 hearings with a staff of 16 board members, 30 support staff, 100 community members and a budget of about $2.75 million. The B.C. board has six members, six staff, 23 community members and a budget of $0.5 million, and carries out about 2,000 hearings. It therefore seems clear that provincial boards, where they exist, are more efficient than the NPB.

   In the long run, it might be cheaper, quicker and better if provinces took over the parole responsibility for both provincial and federal inmates. The federal government could negotiate a suitable financial arrangment.

5. Supervision of parolees was formerly carried out by NPB but this responsibility has been transferred (1978) to the Correctional Service of Canada. The CSC does case preparation in the institutions and contracts with the voluntary sector for the management of halfway houses, etc. All provinces have probation officers, who already supervise federal parolees in certain areas, under agreement with CSC.

   It would be more efficient and cheaper if the CSC were to withdraw from supervision and have it carried out by provincial officers under agreement with the federal government.

6. The NPB also is responsible for the management of applications for pardon, and expends about 57 person-years and $2.3 million in cooperation with the RCMP, which expends about 28 person-years and $1.2 million.

   It seems, given that the RCMP controls the system on which criminal records are kept and also carries out the relevant community investigations, that the RCMP should take responsibility for the entire process, which would mean substantial savings in NPB resources.

CONDITIONAL RELEASE
National Parole Board

OBJECTIVES

The National Parole Board is responsible for parole decisions for federal inmates and provincial inmates other than those held in the provincial institutions of Quebec, Ontario and British Columbia. Some jurisdiction is shared with the Correctional Service of Canada and with provincial corrections officials.

Parole is administered under four separate programs, each of which has a specific objective, depending upon the intended purpose of the conditional release. The programs are Temporary Absence, Day Parole, Full Parole and Mandatory Supervision.

AUTHORITY

Parole Act
Prisons and Reformatories Act
Penitentiary Act
Criminal Code of Canada

EXPENDITURES

Dollars
TOTAL budget = $15.3M ; $2.35M are devoted to Pardon process $13 million

PYs
TOTAL NPB PY = 313 ; 57.5 are used in Pardon process 255

DESCRIPTION

The four programs are described in the following pages.

BENEFICIARIES

The beneficiaries are inmates who receive conditional liberation, their families and, in the abstract sense, the Canadian public.

OBSERVATIONS

Nil.

ASSESSMENT

There is general agreement among federal and provincial corrections officials that temporary absence and full parole are necessary and valuable forms of conditional release. Day parole is seen as a form that would be unnecessary if the temporary absence power were more effectively used. Mandatory supervision is generally viewed as a program that has failed and which should be either abolished or significantly amended.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

A short-term option would be directed to improving the efficiency of the existing parole system. This would maintain the status quo with respect to federal and provincial parole jurisdiction, but with several significant changes in federal procedure:

a. Members of the National Parole Board would be more carefully chosen for background in the justice system, education and other relevant characteristics.

b. Objective parole guidelines would be required under the parole regulations to provide national standards of decision-making, ensure that all relevant factors would be considered and to provide the appearance as well as the substance of uniform decision-making across Canada. Parole Board members would provide written reasons for overriding the presumptive decision derived from the guidelines; the Parole Board would have no responsibility for the "quality" of parole supervision, which would be the responsibility of CSC.

c. Authority over temporary absence for federal inmates would be transferred back to CSC (wardens) which would reduce if not eliminate the need for day parole and would provide a significant saving to the NPB, which expends 30 person-years and $1.3 million on TA decisions, and 116 person-years and $5 million on day-parole decisions. No significant new resources would be expended at the institutional level.

d. A "gating" procedure would exist for inmates deemed too dangerous for release on mandatory supervision.

These changes would fulfill the federal mandate, enhance the quality and equity of parole decision-making, provide greater flexibility in management of institutional populations and save significant expenditures of money and person years. No negative consequences are apparent.

A long-term alternative would include the above provisions but imbed them in a revised Parole Act. The revised Act would set out, inter alia:

a. requirements for membership on the National Parole Board as a regular, temporary, part-time or community member, including a screening/nomination body;
b. requirements for objective guidelines for decision-making with respect to both parole and "gating";
c. transfer to wardens of authority for TA, including authority for placement in a halfway house without the necessity of Day Parole;
d. eligibility for parole at one-sixth of sentence;
e. the NPB would make decisions with respect to full parole. The CSC would be responsible for supervision of released inmates, except where provinces are responsible under Exchange of Services Agreements;
f. national standards for parole supervision, including the grounds for suspension and revocation;
g. provision for provinces to establish separate provincial parole boards with full authority over conditional release of provincial inmates;
h. procedural safeguards for inmates and parolees; and
i. provision for provincial parole boards to assume responsibility for parole of inmates held in federal institutions in their provinces under standards established by federal legislation, at a cost to be negotiated with the federal government. This might take one of four forms as described herewith.

"Provincialization" of the Parole System

The National Parole Board could be completely "provincialized". The federal government could assist the seven provinces and two territories that do not have separate parole boards to establish individual boards which would then be responsible for full parole (actual supervision could be contracted to thé respective provincial government community corrections department) for both federal and provincial inmates within those provinces and territories. Quebec, Ontario and British Columbia, which already have provincial parole boards, could assume responsibility for the parole and supervision of federal inmates in those provinces. The federal government could pay a fee per decision for federal inmates paroled by provincial authorities. This model could work effectively, whether or not provincial officials accepted responsibility for operating the federal institutions within their respective jurisdictions.

Based on the NPB budget for 1985/86, about 255 person-years and $13 million would be recovered each year under this alternative (total NPB budget less 57.5 person-years and $2.1 million for the Pardon program). This saving would be more than adequate to cover the costs per decision of provincial board decisions for federal inmates. The estimated cost per annum would be about $2.4 million, at $200 per decision, based on NPB statistics. The net annual savings therefore would be about 255 person-years and about $8 million.

The positive results of this alternative would include:

a. a substantial reduction in costs for the federal government;
b. rationalization of the parole system by abolishing duplication and overlap in this area;
c. elimination of an area of friction between the federal and provincial governments;
d. removal of an area of decision-making where the media and the public on certain occasions are extremely critical of the federal government;
e. quicker decisions for inmates, made by members of local parole boards; and
f. maintenance of small, local, efficient, cost-effective parole authorities, rather than the enlarged NPB proposed under Bill C-68 to deal with

the expected charter requirement that provincial inmates must be granted hearings by the NPB, which is not presently the case.

The negative results of this alternative could include the loss of 255 federal jobs and possible extended federal/ provincial negotiations to resolve issues.

Federalization of the Parole System

The federal government, with provincial agreement, could take responsibility for parole decision-making for all inmates, federal or provincial. Quebec, Ontario and British Columbia could abolish existing provincial parole boards.

The positive consequences of this alternative would include:

a. possible maintenance of a "national standard" of parole decision-making as opposed to possible variations among 10 provincial and two territorial paroling authorities (N.B. This assumption is not generally accepted by federal or provincial officials.);
b. duplication and overlap could be eliminated;
c. continuance of 255 federal jobs;
d. reduction of about $5 million in provincial costs (Quebec, Ontario and B.C.); and
e. an area of conflict between federal and provincial governments would be eliminated.

The negative consequences of this alternative would include:

a. an increase of about $5 million in annual costs to the federal government (provincial parole budgets);
b. some increase in the number of individuals (approximately 150) making federal parole decisions; and
c. possibly protracted federal-provincial negotiations over jurisdiction, given that provincial officials generally would prefer that the federal government withdraw rather than expand.

Federalization of the Parole System based on a Provincial/Local Board Presence

This consists primarily of the previous option, with the use of local parole boards serving each institution or cluster of institutions. The boards would be composed primarily of local citizens familiar with the justice or social welfare systems and a presiding officer from the National Parole Board.

The positive consequences of this alternative would include:

a. possible maintenance of a "national standard" of parole decision-making as opposed to possible variations among 10 provincial and 2 territorial paroling authorities (N.B. This assumption is not generally accepted by federal or provincial officials.);
b. duplication and overlap could be eliminated;
c. continuance of approximately 250 federal jobs at national headquarters;
d. an area of conflict between federal and provincial governments could be eliminated; and
e. local expertise could be utilized thereby providing more cost-efficient, community-based input into the decision-making process.

The negative consequences of this alternative would include:

a. an increase of about $5 million in annual costs to the federal government; and
b. possibly protracted federal/provincial negotiations over jurisdiction, given that provincial officials generally would prefer that the federal government withdraw rather than expand.

Administration by Prison Staff Members

Parole could be administered by prison staff members, under the same regulations as parole is now administered by the NPB. This would bring parole closer to the community level and would be faster, cheaper and more efficient. The NPB could be dismantled, at a savings of 255 person-years and $13 million. The shortcoming of this alternative is that institutional staff might be perceived in some quarters as being too close to the inmate to make dispassionate decisions.

TEMPORARY ESCORTED OR UNESCORTED OCCASIONAL RELEASE
National Parole Board

OBJECTIVES

Temporary Absence (TA) is a form of short-term release, usually not longer than three days, which may be granted for medical, humanitarian (family illness, funerals, divorce court, community service, recreational, cultural activities, etc.) or administrative reasons. Inmates are eligible for Escorted TA any time after the commencement of sentence. Generally, inmates are eligible for Unescorted TA after completing one-sixth of sentence, or at any time for emergency medical treatment.

AUTHORITY

Parole Act
Penitentiary Act
Prisons and Reformatories Act

DAY PAROLE
National Parole Board

OBJECTIVES

Day parole is a form of conditional release between total incarceration and full conditional release, designed to help inmates reintegrate into society. It allows selected offenders specified periods of supervised release under conditions and controls which can be gradually reduced commensurate with the acceptability of the individual's behaviour and the protection of the public.

An individual to whom it is granted must return to prison regularly or at the end of a specified duration. Such releases may be granted: (a) prior to eligibility for full release; (b) after eligibility and instead of full release if the board thinks that the more controlled conditions are preferable; or (c) when inmates denied full parole are approaching release on mandatory supervision by law, if it is believed that gradual release will improve the probability of successful completion of the mandatory supervision period.

By allowing for testing in the community and immediate return to incarceration when warranted, the restrictive nature of the program offers more protection to the public than would release without controls at warrant expiry.

FULL PAROLE
National Parole Board

OBJECTIVES

Full parole allows for the early, conditional release of an offender if the paroling authority is satisfied that:

a. the prisoner has received the maximum benefit from imprisonment;
b. the reform and rehabilitation of the prisoner will be aided by the grant of parole; and
c. the release of the offender on parole would not constitute an undue risk to society.

In general, inmates serving definite sentences (i.e. not a life-sentence, preventive detention, or an indeterminate sentence) are eligible for review for full parole after serving one-third of their sentence or seven years, whichever is less. There are exceptions, such as inmates with a record of violent conduct.

AUTHORITY

Parole Act

MANDATORY SUPERVISION
National Parole Board

OBJECTIVES

The purpose of this program is to require inmates who do not receive parole to serve their accumulated remission credits under supervision in the community after release until expiry of the original warrant of committal, in the expectation that supervision will assist the offender to reintegrate more successfully into society than would be the case if he or she were simply released at warrant expiry. It also allows for the return of the inmate to custody if the conditions of release are violated. Inmates are entitled by law to this form of release which ususally occurs at the two-thirds point in their sentence.

AUTHORITY

The Parole Act
The Penitentiary Act

PARDON: FEDERAL OFFENCES
National Parole Board

OBJECTIVES

To assist people who have been found guilty of a criminal offence and who, having satisfied the sentence imposed, have subsequently shown that they are law-abiding citizens.

AUTHORITY

The Criminal Records Act
Criminal Code
Letters Patent

DESCRIPTION

The Criminal Records Act confers upon the National Parole Board the responsibility to administer applications for the grant of Pardon. Upon receipt of an application for pardon and after determining that the individual has satisfied both the sentence imposed and the compulsory waiting period prior to eligibility, the board usually refers applications to the Royal Canadian Mounted Police to initiate community investigations. The board analyses the results of these investigations together with other relevant information and formulates a recommendation for the consideration of the Solicitor General who refers it to the Governor-in-Council for final decision. The granting of a pardon is recognition that the individual, having remained free of further convictions, deserves to be free of the stigmatizing effects of a criminal record.

The Royal Prerogative of Mercy, on the other hand is the power vested in the Governor General by the Letters Patent constituting the Office of the Governor General to exercise executive clemency. The power pertains to offences against federal laws exclusively. The Parole Act requires that the National Parole Board, upon direction by the Solicitor General, initiate investigations or inquiries with respect to any request made for the exercise of the Royal Prerogative of Mercy.

The Royal Prerogative of Mercy is exercised on the advice of the Solicitor General or another cabinet minister. The measures of clemency afforded by the Royal Prerogative of Mercy include free pardons and conditional

pardons, and the remittance of fines, penalties or forfeitures imposed. The exercise of the Royal Prerogative of Mercy is intended to be invoked in exceptional circumstances only when no other remedy exists in law or when available remedies would either result in more hardship or would not afford the appropriate measure of relief.

In 1983/84, the National Parole Board made recommendations with respect to the grant of a Pardon or the exercise of the Royal Prerogative of Mercy for 8,313 individuals. Twenty-two applications were received for the Royal Prerogative of Mercy.

BENEFICIARIES

Major recipients of the benefits of the Clemency program are those individuals who are directly granted a pardon or are the recipients of a remedy under the exercise of the Royal Prerogative of Mercy. The relief to persons who have been wrongfully convicted and the reduction or elimination of the burden of a criminal record are significant benefits of the Clemency program.

EXPENDITURES ($000)

	84/85	PYs
NPB	2,357	57.5
RCMP*	1,200	33.5
TOTAL	3,557	91.0

* RCMP officials think that this may underestimate person-year usage. The method of gathering these data is under review.

OBSERVATIONS

Following a review of clemency powers by the Solicitor General, certain shortcomings of the Criminal Records Act were identified:

a. the requirement for an application and investigation of good behaviour in every case is administratively expensive and gives rise to undue

delays in the granting of pardons. Furthermore, inquiries made on behalf of the Parole Board by the RCMP can give rise to embarrassment on the part of the applicant;

b. the relief provided by a pardon is inadequate to remedy the ongoing disabilities associated with a criminal conviction since the existence of the pardoned conviction cannot be denied;

c. the prohibition on the disclosure of the federal records of pardoned convictions impedes criminal investigations and prosecutions, while leaving disclosure of records kept by other agencies largely unregulated;

d. no provisions exist for the destruction of dated criminal records, whether pardoned or not. Destruction policy is determined by RCMP administrative directives;

e. no provisions exist for the removal from RCMP central files of fingerprints and photographs of persons charged with, but not convicted of indictable offences; and

f. the broad grounds for revocation of pardon under the current legislation gives rise to an onerous administrative burden in processing requests for revocation, as well as difficulties in structuring the discretion inherent in determining that an offender is no longer of "good behavior".

As a result of the limitations of the current legislation, only a small proportion of persons eligible for pardons have applied under the Act.

ASSESSMENT

The existing method is slow (an average of 13 months per application processed); costly (91 person-years); cumbersome (requires a decision by the Governor-in-Council); and counterproductive (after the RCMP completes the necessary community assessment, employers, neighbors and relatives have knowledge that the applicant has a criminal record).

There is general agreement among the federal and provincial governments and the private sector that costs should be reduced and that service to the public should be

improved to the degree that these objectives can be attained without bringing the administration of justice into disrepute or destroying (as opposed to sealing) the records of certain serious offenders.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

The presumptive "Sealed Record" model described herein, as proposed by the clemency review team in 1985 and the draft legislation prepared pursuant to that proposal, appears to provide an efficient and cost-effective method of revising the existing regulations and procedures for processing applications for pardon. The shift to a records management scheme should result in the benefits being conferred on a much larger class of individuals, as well as in significant administrative and investigative savings.

Eligibility: The model legislation would apply to all offences under federal legislation, other than ones for which a life or indeterminate sentence was imposed. If it were believed that the benefits of the Act should not apply to more serious offences without proof of good behaviour over and above the passage of a crime-free period, specified offences could either be excluded from the application of the Act or be made subject to a requirement of general good behaviour, which could be determined by the National Parole Board or by judicial decision.

There appears to be a consensus that the only effective way of relieving ex-offenders from the ongoing social and economic disabilities associated with a criminal record is to permit the ex-offender to deny the conviction. This can be accomplished in a number of ways, including:

a. deeming the finding of guilt and conviction not to have occurred - June 1983 proposals;

b. deeming the offence not to have been committed - Section 45, Young Offenders Act;

c. stipulating that the ex-offender is entitled to deny the existence of the conviction;

d. deeming a criminal record not to exist (this would seem worthy of serious consideration, since this form of question is common to many employment questionnaires);

e. the model legislation, unlike the present system, would make records of spent convictions accessible to law enforcement authorities; however, there would be a penalty for unauthorized disclosure of such records; (this approach has been criticized as a weakening of the relief afforded by the Criminal Records Act); and

f. it is also necessary to decide whether the record destruction provision should be included in the statute, in regulations under the Act, or determined by RCMP administrative guidelines.

Role of the National Parole Board: This would be determined largely by the decision made as to the requirement for general good behaviour. Should such a requirement not be included in the new act, a subsidiary role might be the verification of the crime-free eligibility periods. It would appear, however, that this function could be more efficiently performed by the RCMP, which has custody of the relevant records.

Certificate: Should good behaviour be required, a certificate identifying the inquiries made would retain a purpose. If not, some form of documentation confirming the eligible ex-offender's right to deny convictions for which relief is obtained might be desirable.

It is worth noting that the model legislation provides that offences for which a greater sentence may be imposed by reason of the existence of a prior conviction would not be spent until five years had elapsed after the expiry of the sentence imposed. This would apply primarily to impaired driving offences, for which increased penalties are sought, depending on the practice in different provinces and in the case of recidivism within five years of the original offence.

Cost-Effective Management of Offender Records: The RCMP should be responsible for the program. Criminal records in the Canadian Police Information Centre (CPIC) could be removed automatically as they expired, subject to necessary records and community reviews. It is estimated that 57.5 person-years and $2.4 million would be saved

annually if responsibility were removed from the NPB and lodged with the RCMP. Other savings would be realized if a form letter to inform the individual ex-offender were sent, rather than an ornate certificate as is presently the case. CPIC should identify the existence of a sealed record, subject to the above.

If the status quo is maintained, the NPB should be authorized to obtain a CPIC terminal to speed up the process.

This program is not one that should be privatized or provincialized.

FEDERAL PAROLE - COMMUNITY SUPERVISION
National Parole Board

OBJECTIVES

To assist in the reintegration of the offender with the community through a balanced program of community supervision incorporating the need to protect the public, the desire to promote law abiding behaviour, the reduction in the "dollar" and "human" cost of unnecessary incarceration and the reinforcement of the social control/social contract precepts underlying the administration of justice.

AUTHORITY

Penitentiary Act, Section 4.1

DESCRIPTION

The National Parole Board does not have jurisdiction with regard to community supervision of offenders released by it. Pursuant to Section 4.1 of the Penitentiary Act, the federal Commissioner of the Correctional Service of Canada has control and management of the National Parole Service (Community) and is responsible for the supervision of offenders (federal & provincial) to whom parole (day & full) or temporary absence has been granted or who have been released on mandatory supervision pursuant to the Parole Act.

BENEFICIARIES

Major recipients of the benefits of parole/community supervision are those offenders (federal & provincial) granted parole or temporary absence or released on mandatory supervision.

The family of the offender and the taxpayer benefit as it is anticipated employment upon release will eliminate the need for welfare assistance facing many families during incarceration of the offender.

The community at large benefits from gradual release mechanisms as societal reintegration can be approached through the control/assistance process of supervision.

EXPENDITURES

	84/85
Costs:	
To Private Sector	$13,778,365
CSC Staffing & Overhead	$30,709,213
TOTAL	$44,487,578
CSC PYs	807

Of the $30,709,213 dedicated to the actual CSC National Parole Service activities throughout Canada, the appropriate allocation between federal and provincial offenders (case preparation and case supervision) is as follows:

	Provincial Case Preparation	Provincial Case Supervision	Federal Case Preparation	Federal Case Supervision
National Figures	8%	8%	33%	51%
	$2.5M	$2.4M	$9.9M	$15.8M

Note: The figures above are approximate and relate to the field operations of CSC - National Parole Service throughout Canada and do not account for regional or national headquarters person-years or dollars.

OBSERVATIONS

Community supervision, necessary due to release under the Parole Act, is believed to provide a significantly greater protection to the public than release without supervision.

Consistent with that belief is the acknowledged position that positive change may occur progressively with the offender, following a period of incarceration, through imposed and enforced conditions of conditional release.

Although there is consensus among federal, provincial and private sector corrections personnel as to the benefits of the community-supervision aspect of conditional release, there is growing interest in the rational ordering of resources associated with an integration model of federal/provincial community corrections.

The CSC's National Parole Service is providing case preparation and case supervision services to the provinces at an expense.

OPTIONS

The study team recommend to the Task Force that the government consider the following:

1. Maintain the status quo.

   The cost associated with maintaining the existing model of federal community supervision is as described on the preceeding page. The positive results could include:

   - no loss of federal jobs;
   - control of the majority of direct supervision thereby having internal management of the quality of supervision; and
   - no expenditure of time and/or resources associated with federal/provincial negotiations, pertinent to an integrated model of community corrections.

   The negative results could include:

   - possible alienation of those provincial corrections systems favourable to an integrated model of community corrections; and
   - continual duplication and overlap between the federal and provincial community corrections systems.

2. Cost recovery from provinces.

   The costs associated with case preparation and case supervision of provincial inmates released by the National Parole Board could be recovered. The positive results could include federal cost restriction due to the influx of provincial revenue; and no loss of federal jobs.

   The negative results could include hostility from the province as parole is considered a federal authority and therefore, a federal expense.

3. Federalization of all Community Supervision (Probation and Parole)

The federal parole network could be expanded to take provincial probation supervision under its administrative umbrella, thereby creating a unified community corrections system.

The positive results could include:

a. creation of a "national standard" of community supervision;
b. duplication and overlap could be eliminated;
c. continuance of federal jobs; and
d. an area of conflict between federal and provincial governments would be eliminated.

The negative consequences could include:

a. a considerable increase in annual costs to the federal government;
b. the complexity of establishing and monitoring a "national standard" of community supervision would require a substantial federal effort involving person years and resources increase; and
c. protracted federal/provincial negotiations as provincial officials would prefer federal withdrawal.

Note: It is felt that "Privatization" of community supervision (non-profit and for-profit) is premature, requiring a rationalization of resource allocation between the federal/provincial community corrections systems before adding the complexity of an expanded role for the voluntary sector and the further complexity of the "Private Enterprise" initiative.

4. "Provincialization" of Federal Community Supervision

The community supervision of federal conditional release could be completely "provincialized". By utilizing the existing administrative umbrella of the interested provincial community corrections systems, an integrated model of community corrections (federal and provincial) could maximize efficiency and effectiveness of taxpayers' dollars directed to this particular aspect of correctional activity.

The positive results could include:

a. a reduction in the number of federal employees;
b. rationalization of federal/provincial resources paralleling service supply in other social welfare areas such as social services, education and hospitals;
c. possible federal cost avoidance due to "provincialization" of the administrative element of federal community supervision;
d. creation of a more harmonious federal/provincial environment based on cooperative federalism in the area of service supply; and
e. possible cost "avoidance" for federal corrections.

The negative results could include:

a. a reduction in the number of federal employees with attendant union reaction;
b. possible extended federal/provincial negotiations to resolve issues; and
c. sub-contracting-out an area of responsibility for which the Federal Solicitor General is accountable.

5. "Provincialization" of all Federal Community Supervision

The potential for federal cost "avoidance" in conjunction with a more rational ordering of resources (federal and provincial) makes the integrated model of community supervision the most attractive alternative at hand. Through contractual arrangement with interested provinces, the Correctional Service of Canada could arrange for the community supervision of existing federal clients requiring such service.

This arrangement is essentially in place in most provinces across Canada. What is being proposed is that the primary and sole responsibility for federal community supervision be assumed by the various provincial community corrections systems which are currently serving in a secondary or "minor shareholder" capacity.

In essence, this would expand the existing "sharing" model of supervision for federal cases to allow the provincial governments to become the sole service supplier (in conjunction with private sector organizations).

Case preparation and supervision for provincial offenders as well as supervision of federal offenders could be assumed by the respective provincial community corrections systems. However, case preparation for federal cases should remain with CSC as this has direct implicationsfor federal parole hearings.

There is a potential for an approximate 50-per-cent reduction in the 807 federal person-years for CSC - National Parole Service if the provinces agree to take over provincial case preparation and supervision as well as federal case supervision. Federal 'cost avoidance' is impossible to determine until a province-by-province contractual arrangement materializes.

LAW ENFORCEMENT
OVERVIEW

In the view of the study team, the major law enforcement issue confronting the federal government is the future role and responsibilities of the RCMP. During the period of rapid growth in police personnel and expenditures, the RCMP became increasingly a police service under contract to the provinces and over 190 municipalities. With restraint, federal policing priorities suffered because of contract commitments which now constitute over 50 per cent of RCMP human and fiscal expenditures.

In part because of the relatively low priority given to federal responsibilities by the RCMP, other federal departments, agencies and crown corporations created their own policing capacity - sixteen departments employing over 13,000 investigators at about $500 million annually. The study team believes proliferation of federal enforcement units has created inefficiencies in resource allocation and information sharing, overlap and some duplication of activities, inappropriately assigned police powers (which may be raised in Charter issues) and, in some areas, little or ineffective enforcement and lost revenue. In addition, there is overlap and duplication with a number of provincial enforcement agencies.

The RCMP has come under increasing pressure to attach higher priority to its federal responsibilities, to enhance its protective service capacity, to assist federal departments in investigations likely to lead to criminal prosecution and to take a lead role in criminal intelligence and enforcement of commercial crime, organized crime and particularly drug enforcement.

There remains, however, some degree of ambiguity and dissent about precisely what are the federal responsibilities for law enforcement. Two current projects which will be bringing recommendations to Cabinet -- Federal Law Enforcement Under Review (Solicitor General Canada) and the Federal Compliance Project (Department of Justice) -- should provide the base (along with the CSIS Act, Part IV) for the rationalization of federal enforcement of federal statutes.

Nevertheless, in the view of the study team, neither project goes far enough. A formal definition of federal and RCMP responsibilities will also require an examination of those criminal code offences which demand a national

response, and of the federal government's role in providing national police services and promoting national standards of policing. The Solicitor General Canada and the Department of Justice should, in the view of the study team, jointly develop (in consultation with other relevant federal departments) the federal position on the definition of a federal offence, federal enforcement responsibilities and the future role of the RCMP in federal enforcement.

Furthermore, the enhancement of the federal role and responsibilities of the RCMP will require a fundamental review of its current organization and procedures. For example, the greater need for specialized enforcement knowledge and skills would require changes in RCMP training and consideration of such options (not now employed), as lateral entry into senior positions. The review of federal responsibilities should, the study team believes, include, a review of the organizational and policy implications for the RCMP.

The timeframe for such a project is very much determined by the federal/provincial contract negotiations. While some provinces (Newfoundland and New Brunswick) have already cut down on RCMP contract services, most provinces will not be ready to discontinue contract arrangements by 1991 (termination date of the current contracts), despite their concerns about their ability to establish priorities for the RCMP and hold it accountable. (Bill C-65 might alleviate some concerns.) At the same time, many within the police community and some provincial officials have come to question whether a national force is the most effective or efficient means of providing municipal police services, or should they be community-based and under local authority. The federal government could announce its intention of withdrawing from contract services with municipalities of over 15,000 population by 1991, and renegotiate the 1991 provincial contracts with the view that after 2001, contract services would be offered only under exceptional circumstances. Withdrawal from contract services should, the study team suggests, only occur on the basis of a clear, formal federal role for the RCMP.

The federal government could also define a core of national police services, (technical assistance, information bases, training, intelligence) that would fall within federal responsibility (and costs) to assist in ensuring effective and efficient policing across Canada. The basis for this core of services already exists through Canadian Police Services offered by the RCMP and the law enforcement research and development program of the Solicitor General.

There are, however, in the study team's view, some major gaps. Perhaps the most important example is the development of information technology for policing. Such systems have great potential for improving police planning, decision-making and accountability. For these reasons, most major police forces are now developing some form of police management information system. The RCMP has spent millions of dollars developing its system (PIRS) independent of these other efforts. Some police departments have asked for RCMP assistance and the RCMP plans to respond on the basis of full cost-recovery. Other police departments have looked to the Solicitor General for assistance, and yet others to the Canadian Centre for Justice Statistics. Not only is this duplication expensive, it inhibits inter-police communication and the creation of national data. Recognizing the inefficiencies of such an approach, the Canadian Association of Chiefs of Police has called upon the federal government to develop a coordinated response. The Solicitor General, in consultation with the Canadian Centre and the RCMP, could develop such a mechanism for providing assistance and coordination in information system development.

The study team also made a number of specific proposals to reduce program inefficiencies and to make greater use of private contract services where special RCMP security needs allow.

CANADIAN POLICE INFORMATION CENTRE
Royal Canadian Mounted Police

OBJECTIVES

To assist all accredited police departments by providing access to an automated national criminal information system.

AUTHORITY

TB Minute 670388, 16 Aug. 1967;
TB Minute 690706, 24 July 1969.

DESCRIPTION

The CPIC system is a repository of crime-related information which is available to police agencies from coast to coast. Canadian agencies store data in the repository and retrieve it as required through the use of on-line computer terminals. The government of Canada bears all costs. Currently, about 1,360 terminals in police stations across Canada are used to access some three million records on seven files. These files contain data on Motor Vehicles, Property, Boats and Motors, Persons, Criminal Synopsis, Criminal Name Index and Dental Characteristics. The CPIC system is operational 24 hours a day on a dedicated computer. To ensure a minimum delay in the event of hardware failure, a duplicate system was acquired as a back-up.

The Canadian Police Information Centre is an outgrowth of meetings between the Federal Attorney General and Provincial Attornies General in 1966. These meetings were concerned with identifying means of assisting the police community in combatting organized crime. The CPIC system was approved by Treasury Board in 1967 as a computerized information system for law enforcement use to provide all Canadian law enforcement agencies with information on crimes and criminals. As a Canadian Police Service it is offered at no cost (since 1971).

An Advisory Committee of 26 senior police officers from municipal police forces, provincial police forces, the Ontario Police Commission, and the RCMP (representing the Attornies General of the provinces under RCMP contract) govern the CPIC system. The Advisory Committee is the policy-making authority for the CPIC system and is

responsible for establishing the scope and content of the data files, how the system is used and regulated and which agencies are eligible to use the system.

The Advisory Committee was created in 1969, three years prior to the release of the first application by CPIC. It has played an important and continuing role in the development and control of CPIC. The committee meets once a year to deal with matters related to the CPIC system.

BENEFICIARIES

All accredited police forces; other federal and provincial departments indirectly through the RCMP.

EXPENDITURES ($000)

	83/84 Expenditures	84/85 Main Estimates
Salaries and Wages	7,804	8,258
Other O&M	11,574	15,215
Grants/Contributions	-	-
Capital	1,988	1,498
TOTAL	21,366	24,971
Revenues	-	-
PYs	266	267

These figures are only approximate as it is impossible to accurately separate the CPIC costs from other RCMP informatics costs.

OBSERVATIONS

The conditions which prompted the initiation of these services remain today. These services promote national police cooperation, enhance the level of service to all areas of Canada and provide a national criminal information system essential to efficient law enforcement in Canada. As well, the safety of all policemen is enhanced by the rapid communication of criminal information. CPIC has become an essential aspect of policing in Canada as evidenced by widespread and increasing use made of the system by police across the country.

Initially, CPIC was partially cost-shared. The contract provinces and municipalities were required to pay a portion of the line and terminal expenses associated with CPIC; Ontario and Quebec were required to share on a 50/50

basis for five years after which they would share on the same basis as the contract provinces. In fact, Quebec developed its own system and was thus charged only a monthly rate for the CPIC "link up". In the renegotiations of the last contracts, the federal government agreed to provide the service at no cost to the contract provinces and municipalities, after which Treasury Board approved discontinuance of cost-sharing with Ontario and Quebec. The cost-sharing arrangement had allowed the RCMP to recover about 10 per cent of the total CPIC costs.

The RCMP's position on CPIC cost-sharing is that it has in the past produced inter-provincial inequities and some conflict in the police community. They argue that the provision of CPIC at no cost contributes to inter-police relations and to national unity more generally.

A number of departments and agencies, particulary the agencies of the Solicitor General, depend on CPIC information. Currently, however, they must make CPIC requests through the RCMP, one request at a time, because CPIC policy restricts direct access to accredited police forces. This has created inefficiencies for the outside agencies and additional burden on the RCMP in responding to requests and producing hard copy. The RCMP and the Advisory Committee have adopted this policy because of concerns about maintaining tight control over the data, to protect the information from misuse and abuse.

The Federal Compliance Project of Justice Canada is proposing that the RCMP provide full information about the types of data on regulatory infractions now carried on CPIC. Ultimately, this information could be removed to a separate data bank.

ASSESSMENT

CPIC has become an integral component of Canadian policing. It is well used and extremely valued by the police community and by a number of other departments and agencies.

Limited cost-recovery, for terminals and lines, had been in effect prior to the negotiation of the 1981 contracts. In the view of the study team, the issue might well be included in the next round of negotiations.

The study team believes that while a number of agencies currently have access to CPIC through the RCMP, the lack of direct access creates inefficiencies for these agencies and the RCMP as well.

OPTIONS

The system is currently well run and the RCMP has planned some technological improvements (network integration) which will make the Informatics Section even more efficient. Nevertheless, a number of problems would remain unresolved.

The study team recommends to the Task Force that the government consider the following:

1. Include the costs of terminals and lines in the next round of contract negotiations.

2. Develop mechanisms which provide legitimate users direct "link-up" to CPIC and which protect the integrity of CPIC.

3. The RCMP should provide full information on the types of data maintained in CPIC on regulatory offences to further the work of the Federal Compliance Project.

CANADIAN POLICE COLLEGE
Royal Canadian Mounted Police

OBJECTIVES

To assist in the development of the law enforcement profession by providing, upon request, police training in management and specialized areas, to senior personnel of all Canadian police agencies, some other government agencies and foreign police departments.

The college's overall objective is to contribute to improved individual and organizational effectiveness within Canadian federal, provincial and municipal law enforcement agencies.

AUTHORITY

Treasury Board Minute 720381, July, 1973.

DESCRIPTION

The Canadian Police College is a federally funded national institution, providing advanced training in specialized investigative areas and in organizational and personnel management. The Canadian Police College Advisory Committee, with representatives of the appropriate provincial ministers and the Canadian Association of Chiefs of Police, provides ongoing advice on the training needs which can best be met by the college.

The current mandate for the college to provide training as a Canadian police service emerged from the 1966 Federal-Provincial Conference on Organized Crime. These services are available at no cost beyond a small per diem to cover food costs. To ensure equal access for all police agencies, the federal government pays the transportation costs of college candidates.

Courses are researched and developed in collaboration with, and often under contract to, police specialists. Courses are taught by a combination of college staff, contract instructors from universities, officials from other government departments, the courts and the military, experts from private industry and secondments from the RCMP and other police departments. In 1985, 120 courses are scheduled for 2200 police officers from across Canada and Commonwealth countries.

The college also provides related research information, educational and advisory services:

a. the Continuing Education Program encourages police personnel to pursue, on their own time, relevant courses offered by universities. The program issues diplomas and certificates upon the successful completion of each of three phases, each phase consisting of five full university courses;

b. the Law Enforcement Reference Centre provides a source of information and reference services to all RCMP, college staff and candidates; and

c. the research component focuses on course development and evaluation. The college publishes the findings of research and other papers on policing in the Canadian Police College Journal.

BENEFICIARIES

All accredited police agencies in Canada, Commonwealth and other foreign police agencies, and some federal departments.

EXPENDITURES ($000)

	83/84	84/85
Gross Expenditures	5,344	5,736
Revenues		
Net Expenditures	5,344	5,736
PYs	71	68

OBSERVATIONS

The growing awareness of the need for and importance of training for police has resulted in a dramatic expansion in training programs. During the past 10-12 years, five provincial academies were established to serve some of the training needs in eight provinces. The RCMP has a large training and development branch to serve its own needs for recruit and in-service training, and larger municipal forces, often in conjunction with community colleges, have also developed training programs. The Treasury Board assessment of the college concludes that its program is unique and complements these other programs. While overlap

and duplication is apparently minimal, interviews with experts in police training revealed the concern that some college courses might better be delivered by provincial institutions, community colleges and universities while other courses not now delivered centrally might be more cost-effectively delivered by the college. The college has developed good working relations and resource-sharing with the Training and Development Branch of the RCMP, and has informal relations with other police training institutions. However, the directors of training at all levels of government have not made a collective attempt to rationalize the delivery of training services.

Similarly, training of federal inspectors and enforcement officers has become seriously fragmented, with some federal departments and agencies using RCMP facilities, some using the college, some using their own training facilities and some with little or no formal training in the area. Two studies, FLEUR and the Federal Compliance Project, have independently recommended that the Solicitor General, the RCMP, the Department of Justice and the Public Service Commission take the lead in rationalizing federal training and, by using existing resources, offer consistent training in federal inspection and enforcement.

Several provincial and municipal officials also indicated the potential cost-benefits of greater decentralization, using provincial facilities to deliver courses when feasible. The college is increasingly exercising this option when it is judged to be cost-effective. For example, specialized investigation courses have been offered in British Columbia. Similarly the college is giving greater emphasis to courses for police instructors who can then conduct local training at local expense, and is also examining areas in which individualized instruction and computer-based courses can be provided to police agencies for local training.

A planned reorganization of the division in which the college is located ("N" Division) would bring the college under the same division as the Training and Development Branch of the RCMP. This might provide an opportunity to examine the possibility of efficiencies through consolidation of services such as course evaluation. It should be emphasized that a number of the college's beneficiaries have expressed concern about preserving the "national" character of the college and avoiding undue influence by the RCMP in shaping the college.

Cost-recovery through course fees could reduce net expenditures by the federal government. The RCMP, however, has expressed the concern that some police forces would reduce, perhaps substantially, their use of the college thus reducing the overall effectiveness of Canadian law enforcement. The college currently cannot meet all legitimate training needs (about 23 per cent shortfall) and has tentatively planned some expansion to meet growing demands. While it is likely that course fees would reduce requests, it is impossible to estimate the magnitude of any such reduction in demand.

A number of experts within the police community raised some issues around the growing private police and security industry and the absence or inadequacy of provincial legislation in this area. College courses designed for private justice personnel, at full cost-recovery, might serve to contribute to the development of improved standards of private policing and security.

ASSESSMENT

Although an evaluation of the college is now underway, the results are not yet available. The study team expects the evaluation to confirm that the college is an extremely valuable and valued service which, according to provincial and municipal officials, contributes significantly to improving the effectiveness and efficiency of policing in Canada.

For the most part, the college appears to complement other training services. Nevertheless, much more could be done to rationalize the training resources and services of the college, the RCMP, the provincial institutes, municipal departments, community colleges and other federal departments and agencies. The college could, the study team believes, play a role in promoting the use of existing courses in community colleges and universities, particularly in the management area.

In the view of the study team, decentralization of course delivery holds great promise for reducing training costs. The college should continue its efforts to offer courses, wherever feasible, in provincial and local facilities, to train police instructors who can then offer courses locally, and to develop individualized instruction and computer-based courses which can be delivered locally.

Cost recovery through course fees and specialized courses for private justice personnel could help reduce federal expenditures, with some risk that legitimate use of the college by local police forces would be seriously reduced.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. National Coordination and Resource Sharing

Invite all directors of police training at all levels of government and in community colleges to participate in the rationalization of training resources and services:

a. to ensure that courses are being provided by the most appropriate institution;
b. to develop shared training standards; and
c. to encourage sharing of resources and facilities where greater efficiencies might be achieved (with particular regard to sharing overhead costs such as evaluation with the RCMP, Training and Development Branch).

The development of standards would allow the college to recognize formally the completion of approved courses in other institutions, and, more generally, provide the basis for the more efficient use of existing resources.

2. Federal Coordination and Resource Sharing

Rationalize training at the federal level:

a. to use existing resources to provide consistent training in federal inspection and enforcement; and
b. to define minimum training standards.

3. Decentralization

Continue to develop decentralized approaches to service delivery, including an emphasis on training instructors.

4. Cost Recovery

Give consideration to introducing course fees, and to the possibility of designing courses for private justice personnel, on a cost-recovery basis.

RCMP EMPLOYEE INFORMATION
Royal Canadian Mounted Police

OBJECTIVES

To meet the information needs of personnel and administrative managers of the RCMP.

AUTHORITY

RCMP Act, Sections 5 and 21(2), Admin. Manual I.3., II.1.5 and II.5.

DESCRIPTION

The RCMP maintains information concerning employees (past and present), postings, service records and employment histories. An automated personnel management system called Personnel Administration Research and Development (PARADE) is used to maintain and provide information on all members of the RCMP and to a limited extent, public service employees. As well, overall establishment, classification and staffing information is included. The PARADE system provides administrative information to support the day-to-day activities of personnel management. It is also responsive to the evolving requirements of the management of the RCMP at headquarters and division levels. The PARADE system is decentralized to all divisions to the extent that many of the key entry and retrieval functions can be initiated on a regional basis. An internal requirements study recommending major enhancements to the current system, including public service personnel management information and analysis, is continuing, as are a variety of innovations to decentralize input and access to distribute the increased workload without increasing person-year strength.

BENEFICIARIES

The RCMP.

EXPENDITURES ($000)

	83/84 Expenditures	84/85 Main Estimates
Salaries and Wages	481	578
Other O&M	17	21
Grants/Contributions	-	-
Capital	-	-
TOTAL	498	599
Revenues	-	-
PYs	16	17

OBSERVATIONS

Given the centralized structure of staffing in the RCMP, a system such as PARADE is essential. The Employee Information System seems to be very efficient and effective in the view of the study team.

The system is used strictly for internal purposes and does not relate to the federal/provincial or public orientation of the Task Force review.

OPTIONS

The study team recommends to the Task Force that the government maintain the status quo.

FORENSIC LABORATORY SERVICES
Royal Canadian Mounted Police

OBJECTIVES

To assist, upon request, all Canadian law enforcement agencies and other government agencies by providing specialized forensic laboratory services.

AUTHORITY

RCMP Act, Sections 5 and 21(2); Admin. Manual, App. I-3-2, Section 5.4.

DESCRIPTION

The forensic laboratories are responsible for providing scientific and technical assistance in criminal matters to Canadian police agencies, other authorized agencies at the federal, provincial and municipal levels and the courts through eight forensic laboratories located across Canada in Vancouver, Edmonton, Regina, Winnipeg, Ottawa, Montreal, Sackville and Halifax. Examinations and analyses are conducted on exhibit material submitted from authorized agencies and expert opinions are provided as aids to investigation and as court evidence. This service is provided free-of-charge, as a Canadian police service.

Each laboratory, except Montreal, provides a wide range of forensic examinations of exhibit material using alcohol chemistry (except Winnipeg), documents examination, firearms and toolmark identification, hair and fibre identification, serology and toxicology. The Montreal facility provides a counterfeit examination service for currency and travel documents and a document examination section. The Central Bureau for Counterfeits is located in the Central Forensic Laboratory, Ottawa, and provides examination of suspected counterfeit currency, coin and travel documents and is a central repository for information on international counterfeit activity. The Central Bureau for Counterfeits also evaluates security documents for the Bank of Canada and other federal and provincial fepartments.

The Central Forensic Laboratory maintains a liaison with national and international "forensic institutions" in the conduct of research and development projects. The central laboratory also plays a role in the evaluation of police equipment for general use in law enforcement, e.g. breath-testing instrumentation (for alcohol).

Since 1979, the RCMP, through the Science and Technology Program Support Section, has managed the Program of Science and Technology in Support of Law Enforcement in consultation with the Operational Research Committee of the Canadian Association of Chiefs of Police and the National Research Council of Canada. As lead agency, the RCMP is responsible for the financing, contracting, accounting and monitoring of all projects initiated by this program which is undertaken to satisfy the research needs of the Canadian police community.

This program was evaluated in 1983 and the seven issues addressed led to a number of recommendations aimed at program improvement which are now being implemented.

BENEFICIARIES

All accredited police agencies in Canada (and other federal, provincial and municipal departments)

EXPENDITURES

	83/84	**84/85**
Gross expenditures	$17,192,000	$18,882,000
Revenues	-	-
Net expenditures	$17,192,000	$18,882,000
PYs	320	325

OBSERVATIONS

While Ontario and Quebec have developed high quality laboratory services, no equivalent services have been developed in the provinces under contract. The RCMP services, then, are very important to the law enforcement community and courts throughout Canada. The laboratories are very highly regarded by the provinces and the police community.

The RCMP offers these services at no cost to other police departments as a means of promoting a consistent, national standard in investigation and in the presentation of material evidence. In part this reflects a concern that some departments would be reluctant to use the services if there was a charge for service. On the other hand, cost-recovery would not only reduce net federal expenditures, it could have the added benefit of rationalizing the use of forensic services. There are no nationally accepted uniform criteria for the use of forensic services.

The forensic laboratory services were evaluated in 1983 and a number of recommendations aimed at program improvement have been implemented. One issue, however, has not been resolved. The evaluation indicated the possibility of overlap, particularly between the Sackville and Halifax labs. The Treasury Board Submission (1979) creating the Halifax lab indicated that its creation would likely mean closing the Sackville lab. Feasibility studies by RCMP have shown that the consolidation of the Sackville lab services within the Halifax lab was feasible, with minimal disruption to service, and with potentially considerable savings in capital costs, facilities management, equipment purchases and maintenance, and administrative overhead. The province of New Brunswick and the Sackville community would find such a move objectionable because of some expressed fears of deterioration in service and because of the importance of the Sackville lab to the local economy.

A similar argument could be made for the Montreal forensic laboratory, although it is extremely small (eight person-years) and offers only limited services. Nevertheless, the development of a strong provincial laboratory in Montreal and the proximity to Ottawa's central lab may make the Montreal lab redundant. (This view was expressed in interviews with personnel in the federal and provincial Montreal labs.) On the other hand, the lab gives added visibility to Canada's national force in a province where such visibility is otherwise low.

While the provincialization or privatization of the labs might be given consideration, few provinces could bear the start-up costs and continuing equipment costs as forensic technology advances. Furthermore, there exist no equivalent private forensic laboratories in Canada, nor any academic programs in forensic police services. In either case, the RCMP would require its own forensic services. The national program of forensic services has encouraged consistency and continuity in research, development and service and compares favourably to more fragmented "mixed" services as found in the United States. The forensic labs also now contract out for particular forensic science services (e.g. breathalyser work).

There is also a good deal of evidence of significant demand for such services from private organizations (e.g. insurance companies). A policy which opened the labs to such private users on a fee-for-service basis could help to reduce net federal expenditures. The RCMP has expressed

the view that forensic services in large part serve the courts by providing material evidence of high scientific standards. The RCMP will service non-government clients only when involved in the court process and under the direction of the courts.

ASSESSMENT

In the view of the study team, the labs provide an essential and highly valued service to the police community and government departments. The RCMP has contributed to consistency in services at a national level and has contributed significantly to advances in forensic police science.

With the promotion of national standards in the use of forensic services in investigation and court evidence, attempts at cost-recovery would be less likely to lead to inappropriate reductions in the use of labs. Cost-recovery could also be introduced for private sector users. Any attempt at cost-recovery from accredited police departments at the same time as lab closures would no doubt produce extremely negative responses from the affected provinces.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Cost-recovery

   Open the labs to private sector users as feasible within existing resources, on a cost-recovery basis, and initiate discussions with the provinces on the introduction of a fee-for-service, on the basis of unit-cost billing or pro forma billing through which users are billed after an agreed level of service has been provided (i.e. an agreed level of free service is provided at no cost, after which billing commences). The RCMP has expressed concern that legitimate lab use would be inhibited. Other police departments currently account for between 20 per cent and 22 per cent of demand for service.

2. Cost Reduction

   Close the Sackville lab as a first step to regionalizing the labs. All of the western labs currently have heavy workloads and service would likely suffer by closing any one of these. However, the Sackville and Montreal labs could be

closed, incorporating their work in the Halifax and Ottawa labs respectively. Both lab closures are feasible with minimal disruption in standard or quality of service. The savings realized by the closure of Sackville would be in the order of $1 million annually, (estimate) but would be negligible from the closure of the Montreal lab, which is small and is located within the federal detachment. The RCMP should begin by closing the Sackville lab.

3. Provincialization

Provincial control of the labs would require initial and ongoing expenditures which few provinces would currently wish to take on, and training and research and development needs which few could meet. Provincialization might also mean uneven forensic services which could in turn have negative consequences on the prosecution of cases in some jurisdictions. The RCMP would also require lab services to meet its federal responsibilities. Provincialization would most likely have to be phased in over the long term.

4. Privatization

The facilities and expertise for the provision of police-specific forensic services are not widely available in Canada outside of the police community. In the U.S.,private forensic labs do exist but play a minimal role in the provision of services to the police. Continuity and consistency in services might be jeopardized, as would communication between police and forensic experts.

FEDERAL LAW ENFORCEMENT
Royal Canadian Mounted Police

OBJECTIVES

To prevent and detect offences against Federal Statutes and Executive Orders, to maintain national security and to provide investigative and protective services to other federal departments and agencies.

AUTHORITY

RCMP Act 1959, C. 45, S. 1
Federal/Provincial Agreement Relating to Financial Disclosure and Securities Regulation (Cab. Doc. 612/66, 66 11/02)
Agreements and Memoranda of Understanding with (17) Federal Departments, Agencies and Crown Corporations
CSIS Act, Part 4
Federal Statutes

DESCRIPTION

The RCMP not only enforces the Criminal Code, provincial statutes and municipal by-laws (under contractual agreements), but also has about 70 formal or informal agreements with federal departments, agencies and Crown corporations for the enforcement of federal statutes. Following the 1966 federal/provincial conference on Financial Disclosure and Securities Regulation and Organized Crime, the RCMP's mandate was extended in the domain of white collar and organized crime. At the same time, a number of federally-funded police services were extended to all accredited police forces in Canada. The CSIS Act, Part 4, (Federal Offences Act) assigned primary enforcement responsibility to the RCMP in relation to the investigation and prevention of national security offences and crimes committed in connection with internationally protected persons. Canada is obligated under treaty to protect foreign diplomats and missions. By executive order, protection is accorded other VIPs. By law and executive order, the RCMP has the responsibility to protect the property, information and institutions of Canada against crime. Protective services associated with foreign diplomats and missions involve a combination of electronic systems, patrol systems, contracted static guard services and RCMP bodyguards and escorts.

While the provinces undertake prosecution under the Criminal Code, Parliament has also created offences through about 300 federal statutes which, because of their national scope, are enforced by the federal government. Responsibility for federal law enforcement has become increasingly dispersed among about 48 federal departments, agencies and Crown corporations. Of these, 16 departments have enforcement functions which go beyond routine monitoring and inspection to include the investigation of suspected offences that could lead to criminal prosecution. These 16 departments employ about 13,000 persons, at a cost of roughly $500 million dollars each year (excluding the RCMP and the Correctional Service of Canada).

The federal law enforcement system has been the subject of investigation for a number of years. In 1974, Cabinet directed the Solicitor General of the day to examine the role of the federal government in law enforcement. Two studies, Hickling-Johnston (1975) and Drummie (1978) detailed a number of administrative and operational problems in federal law enforcement. The Marin Commission and the McDonald Commission provided additional evidence of the problems.

In response to the findings of these studies, the Police and Security Branch of the Secretariat of the ministry of the Solicitor General prepared a Memorandum to Cabinet for a full review of Federal Law Enforcement (FLEUR), approved in 1984 and due to be completed in December 1985. The terms of reference of FLEUR mirror those of the Task Force on Program Review. The review is overseen by a Steering Committee at the assistant deputy minister level and representing the Solicitor General, the RCMP, the Department of Justice, the Privy Council Office and the Treasury Board Secretariat.

A complementary study in the Department of Justice -- the Federal Statutes Compliance Project -- is examining the full range of responses to non-compliance to the federal statutes. This project will also be producing a Memorandum to Cabinet in December.

BENEFICIARIES

Citizens of Canada, other federal government departments, international police agencies.

EXPENDITURES ($000)

	83/84	84/85
Gross Expenditures	336,910	276,953
Revenues	28,106	29,608
Net Expenditures	308,804	247,345
PYs	6,707	6,786

These figures include CSIS.

OBSERVATIONS

The RCMP has had to confront an increasingly ambiguous environment, in part because of the expanded role of other federal departments and agencies in law enforcement and because of the lack of formal definition and national consensus on the definition of federal offences and, therefore, of federal law enforcement. Because of this, the RCMP has been extremely supportive of the FLEUR exercise and has urged a fundamental review of the Criminal Code with a view to defining "federal offences" and "federal law enforcement powers".

FLEUR and earlier studies and commissions have identified a number of serious problems in the organization of federal law enforcement:

a. Fragmentation: Despite the central role of the RCMP and its increasing emphasis on federal law enforcement, there appears to be fragmentation of federal law enforcement among the various federal departments and agencies. The RCMP emphasis on contract services and on meeting provincial needs has inhibited its ability to expand its federal enforcement activities to meet its federal responsibilities. This creates difficulties for the coordination of enforcement activities and for the communication- and information-sharing necessary for efficient and effective enforcement.

b. Overlap and Duplication: The proliferation of units with federal law enforcement responsibilities inevitably creates greater potential for overlap and duplication. Confusion and disputes about jurisdiction and mandate and the different objectives and enforcement strategies among the various

departments have inhibited easy resolution of these problems.

c. Peace Officer Powers: There appear to be some problems regarding the use of Section 2 of the Criminal Code for granting of police officer powers and the extent to which the powers granted are appropriate to varying enforcement responsibilities, training and skills. Despite the increasing number of units with police-like functions, there are no consistent standards or mechanisms of reporting, training and, most important, accountability.

As part of the response to the Canadian Security and Intelligence Service Bill, the Department of Justice initiated work on defining "federal offences" and federal law enforcement responsibilities. Initially, this was to be a major part of FLEUR. Section IV of the CSIS Bill provided part of a definition of "federal offence" and consultations are currently in process regarding the implementation of these provisions. The RCMP views this as the first step in formally defining its federal role and responsibilities. The RCMP's federal responsibilities continue to be defined in piecemeal fashion, partly in legislation, partly through executive orders, agreements and memoranda of understanding, and partly through informal agreements.

Provincial response to recent Supreme Court decisions on federal responsibilities for prosecution, provincial concerns regarding the federal role in drug enforcement and general federal/provincial tensions over recent negotiations have apparently inhibited progress toward a fuller formal definition of federal offences and federal law enforcement responsibilities. The Department of Justice has not pursued this initiative.

ASSESSMENT

Federal law enforcement has become particularly important as the new and accessible communications technology has transformed criminal activity. The need for coordinated, effective and efficient federal law enforcement becomes more apparent as crime more easily crosses provincial and national boundaries, as new crimes emerge, as enterprise crime and particularly drug offences pose increasing threats to Canadian society and as Canada becomes more vulnerable to acts of terrorism.

The RCMP is in the process of reorganizing to address increased demands for federal law enforcement and protective services. The FLEUR project, with the full support of the RCMP, is coming to fruition and will recommend to Cabinet a one-year action plan and a second Memorandum to Cabinet following this initial phase.

Given recent federal/provincial tensions regarding criminal justice matters and given the apparent willingness of all parties to improve cooperation and working relations, there is some concern that the time is not propitious for pursuing what would be a highly contentious effort to define formally the concept of "federal offence" and federal law enforcement responsibilities. At the same time, recent events -- the civilianization of the Security Service and cuts in RCMP contracts services -- make particularly urgent the clarification and strengthening of the RCMP federal role, beyond the provisions of CSIS and beyond federal statutes, to include those Criminal Code offences that require response by a national police force.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Support FLEUR Recommendations

   Given the federal/provincial sensitivities and the scope and complexity of the issues, a phased approach to change may be indicated. In consultation with all affected departments:

   a. create a federal police commission to provide services and direction at the federal level similar to those provided by provincial commissions;
   b. clarify departmental and RCMP roles and responsibilities regarding federal statutes;
   c. review all federal statutes to ensure that the appropriate (in terms of need and compliance with the Charter) level of "power" is granted various enforcement units and the creation of a federal enforcement act, separate from the Criminal Code, for granting legal protections (complements Police Powers Project of Criminal Code Review);

d. consolidate training and coordinated planning with the use of existing training facilities and resources to provide more uniform and consistent training to all those at the federal level involved in inspection and enforcement; and

e. create mechanisms for the development of more uniform reporting and a shared data base on federal offences and federal enforcement activities.

2. Support the thrust of the Federal Compliance Project

The importance of this project was noted by the report of the study team on Regulatory Programs. Compliance with and enforcement of federal statutes is best viewed as a single system incorporating such elements as the policy purpose of the statute, the means by which rules are drawn up, the powers of inspectors and enforcement officers and the exercise of those powers. The compliance project is premised on the view that less use should be made of the criminal law which is often too cumbersome, costly and heavy-handed to deal with less serious regulatory offences.

3. Formal Definition of Federal Offence and Federal Law Enforcement Responsibilities

FLEUR and the Federal Compliance Project, taken together, provide the basis for a clear formal definition of federal offences and federal law enforcement responsibilities (beyond CSIS Section 4). If there is reluctance at this time to pursue federal/provincial consultations on jurisdictional issues, the Solicitor General Canada (in consultation with affected federal departments) should, at a minimum, develop the federal position on the future role and organization of the RCMP. To the extent that this is likely to raise fundamental issues about the responsibilities of the Attorney General of Canada, the position will have to be developed jointly with the Department of Justice.

POLICE SERVICES UNDER CONTRACT
Royal Canadian Mounted Police

OBJECTIVES

To prevent and detect crime and maintain law and order in provinces, territories and municipalities under contract.

AUTHORITY

RCMP Act, Section 20
Policing Agreements

DESCRIPTION

Police Services Under Contract was the largest RCMP program reviewed, involving over 50 per cent of the RCMP's total operating expenditures and person-year utilization.

Under a series of agreements entered into between the Solicitor General and provincial, territorial and municipal governments, the RCMP provides general police services to eight provinces (except Ontario and Quebec), the Yukon and Northwest Territories, and 194 municipalities. The current agreements expire on March 31, 1991 and can be terminated upon two years' notice by either party. RCMP detachments provide provincial policing services and enforce traffic laws in rural areas, towns, villages and hamlets with a population of less than 1,500 (or 5,000 in B.C.). Larger municipalities may enter into separate agreements.

The availability of RCMP services under contract has been provided for in legislation since its creation. The RCMP had provided similar services in the territories prior to the creation of the provinces. The original agreements with the provinces were no doubt a result of the capability the RCMP had developed to provide such services. When the provincial capability and resources to provide effective police services increased, the federal government was willing to continue to provide the services of the RCMP in large part because of perceived federal benefits in expanding the force. The terms and conditions of providing these services have varied with the relative financial positions of the federal and provincial governments and with the perceived benefits of the services. In 1940, the RCMP Act was amended to allow the provision of police services under contract to municipalities in provinces served under contract.

As a federal force, the RCMP enforces federal statutes and the Criminal Code when dealing with commercial and organized crime. In the contract provinces, the RCMP serves as the provincial force and thus enforces the Criminal Code and provincial statutes and, as a municipal force, municipal bylaws, as well.

Under the terms of the agreements, the RCMP Commanding officers act under the direction of the provincial attorney general who can have access to required information, effect deployment of RCMP forces within the province, call upon the force to respond to emergencies and, with the permission of the Solicitor General, modify the size of the provincial force.

Police Services Under Contract involve the following major tasks: detachment policing services; traffic services; special investigations; telecommunication; police service dogs; field investigation; crime prevention and police/community relations; operational support; judicial detention; air services; marine services; criminal intelligence; commercial crime; and property and information protection.

A centralized policy centre at Ottawa (Contract Policing Branch) is responsible for coordinating and evaluating all matters relating to the negotiation and administration of the provincial, municipal and territorial policing agreements; for coordinating and preparing the operational plan for all disciplines within Police Services Under Contract; for identifying operational requirements; researching, developing and coordinating policies; evaluating equipment for provincial and municipal policing units and for all tactical areas within the authority of the Director, General Enforcement and Support Services; for all areas of traffic law enforcement; and for crime prevention and police community relations.

The financial terms of the agreements are based on a sliding scale through which, in the final year of the agreements, the provinces reimburse the federal government for 70 per cent of the cost of provincial police services. Municipalities under 15,000 population reimburse the federal government at the same rate while those over 15,000 (mostly in B.C.), by 1990, reimburse the federal government for 90 per cent of the cost of municipal police services.

The federal financial share is supposedly based on the calculation of federal benefits gained through the agreements. Most important is what is referred to as the "two-hatted" benefit. The RCMP, under contract, enforces the Criminal Code, provincial statutes, certain municipal bylaws and federal statutes. In addition to this dual or multiple RCMP role, the agreements provide a range of less tangible, but no less important benefits: a pool of redeployable, well-trained police; diverse experience for RCMP members; a visible, unifying federal presence; a single command structure; economies of scale; a greater degree of clarity, continuity and consistency in policing in Canada; and an emergency response capability.

BENEFICIARIES

Citizens and governments of the eight provinces, two territories and 194 municipalities with policing agreements, plus the federal benefit.

EXPENDITURES ($000)

	83/84	84/85
Gross Expenditures	563,620	581,469
Revenues	312,938	-357,989
Net Expenditures	250,682	223,480
PYs	9,835	9,734

OBSERVATIONS

Although federal benefit is impossible to quantify precisely, a federal task force on law enforcement arrived at a consensus that 25 per cent for provincial agreements and 10 per cent for municipal agreements reflected overall federal benefit. The nominal federal share for provincial agreements will be 30 per cent by the end of the agreement. In fact, the real provincial and municipal burdens are lighter than the agreements would indicate because the cost base which is shared has itself been negotiated. Through these negotiations, headquarters costs, including Canadian Police services and interprovincial transfer costs, have been excluded from the cost-base (and are thus borne entirely by the federal government). In addition, a concessional "office rental" rate (for lower than real costs or value per square foot) serves to lower the cost-base to which the cost-sharing formulas are applied.

In fact, the position of Ontario and Quebec (who do not contract) continues to be that the contracts are a means of delivering a federal subsidy to the other provinces. They have sought "to recover" from the federal government this "foregone subsidy" and continue to explore alternatives toward this end. The federal position has been that the agreements do not provide a subsidy and that contract services are available to all provinces.

In the past, one of the major problems in contract police services has been the dual responsibility of contracted RCMP (to the province and the federal government), and while the 1981 contracts addressed this issue, some provinces continue to express concern about the conflict potential of current arrangements. From the provincial perspective, concern was expressed about the degree of control the provincial government is actually able to exert, especially given the Supreme Court decision reinforcing the RCMP's internal disciplinary authority. From the federal perspective, police policy analysts and researchers have expressed the concern that the growth in contract services and commitment to meet provincial and municipal priorities has cut into the attention given and resources allocated by the RCMP to federal enforcement.

Nevertheless, interviews in the provinces indicated a typically high level of satisfaction with contracted services and good relations among the various police forces in each province. Several mentioned the advantage of being able to draw upon the excellent RCMP infrastructure of training, expertise, information and services.

At the same time, some pointed out areas or functions which might better be performed by local, often less highly trained personnel at lower costs. Among those mentioned were "judicial and detention services" and "highway traffic" services. Some provinces have taken over the former.

Furthermore, over the course of the current agreement, the Province of New Brunswick took advantage of the exclusion clause to create their own Provincial Highway Patrol, thereby reducing their RCMP complement by about 95. Although the N.B. Highway Patrol is too new to allow a valid evaluation, the province is apparently satisfied with its early accomplishments in traffic enforcement. Other provinces are also apparently examining this option.

The federal benefit also seems to diminish as the size of the municipality increases. Newfoundland is cutting back

on RCMP services, especially in its larger municipalities, by expanding the territory covered by the Royal Newfoundland Constabulary (RNC). In large part because of the considerable expense in creating an infrastructure for provincial policing and because of general satisfaction with RCMP services, the province has formally announced that the expansion of the RNC will stop in 1986, and the province has adopted a "two-force policy".

The Secretariat of the Solicitor General is in the developmental stages of a project to review Federal Resources Employed in National Policing (FRENP) which, if carried out, should provide essential information to assist in evaluating the provisions of the current agreements and the relationship between the agreements and federal law enforcement priorities.

ASSESSMENT

The federal government has five years in which to develop its policy and renegotiate its position with the provinces. In the view of the study team, it is evident that any attempt to pull out of contract services entirely during this time would create very considerable federal/provincial conflict and would place an impossible burden on some provinces. Furthermore, it would, under present circumstances, make it virtually impossible for the RCMP to fulfill its federal responsibilities. Nevertheless, especially given the position of Ontario and Quebec, the study team believes a reappraisal of the cost-base and cost-sharing formulas may be in order.

Given the limited federal benefit derived from policing of larger municipalities and the growing emphasis on community-based approaches to municipal policing, consideration might be given to withdrawal from or full cost-recovery in the separate agreements with municipalities of over 15,000 population. By 1986, there will be 28 such municipalities under agreement with the RCMP: 22 in British Columbia, five in Alberta, and one in Saskatchewan, at a federal cost of about $13 million.

In the study team's view, restriction of the range of services offered under contract may also benefit both federal and provincial governments. Consideration might be given to local or provincial delivery of judicial and detention services and highway traffic services. While the RCMP position has been that both, particularly highway services, are integral to an overall program of policing

and that the RCMP can provide such services cost-effectively, the New Brunswick "experiment" offers at least some promise that alternative arrangements can be effective.

OPTIONS

Because of the formal agreements, any changes to be considered will necessarily be phased to be implemented during the negotiations of the 1991 agreements. The Solicitor General's FRENP study, if it is carried out, would provide essential information for the review of the cost-base, cost-sharing formulas and federal and national benefits of the current and future agreements. In the view of the study team, this study should be implemented as soon as possible.

The study team recommends to the Task Force that the governnment consider the following:

1. Maintain the status quo

   While the status quo would be least contentious, it would leave unresolved a number of important issues: contract services cut into federal law enforcement priorities; contract services may not be the most appropriate way of meeting local needs and growing demands for community-based policing; contract services create some problems for provincial governments' ability to control policing in their provinces; and the current contracts may call for greater federal expenditures than warranted on the basis of federal benefits derived.

2. End Contract Policing

   While Ontario and Quebec have already opted oit of RCMP contract services and one other province has intimated that this is a possibility in the medium term, most provinces would react very unfavourably to the withdrawal of contract services, in large part because of the substantial costs involved in re-creating, at a provincial level, the police infrastructure which the RCMP provides. The RCMP has expressed the concern that without a corresponding formal expansion of its federal mandate and role, the withdrawal from contracts would mean a significant loss in federal visibility across Canada, the weakening of an important unifying symbol,

a serious loss in the consistency and coordination of policing in Canada and, most important, a serious deterioration of the force's ability to meet its federal responsibilities.

3. The RCMP could announce its intention of withdrawing in 1991 from contracts with municipalities of over 15,000 population.

   Newfoundland will have already cut contract services in the last of its largest municipalities and only British Columbia would be seriously affected. Local police might better meet demands for community-based approaches. The RCMP has expressed concerns that such a move would inhibit federal visibility to some degree, reduce RCMP effectiveness in B.C. and create personnel management problems. (The larger municipalities are generally seen as desirable postings.) Nevertheless, this option may be an effective way of increasing provincial control of policing while allowing the RCMP to place greater emphasis on its federal responsibilities. The federal government would be required to provide two-years notice. It would be preferable to give much longer notice of intent and allow the current agreements to run their course.

4. Similar considerations would apply to withdrawal from particular services (e.g. traffic services) although in this case no unilateral position may be possible given the different levels of readiness among the provinces to provide such services directly.

IDENTIFICATION SERVICES
Royal Canadian Mounted Police

OBJECTIVES

To assist, upon request, all Canadian law enforcement agencies and other government departments, by providing specialized identification services.

AUTHORITY

RCMP Act, Section 18
Identification of Criminals Act
Criminal Code of Canada, Sect. 106.6(1)
Criminal Records Act, Sect. 6(1)
Young Offenders Act, Sect. 41(4)

DESCRIPTION

The RCMP manages national identification services, including a centralized fingerprint file, arrest and conviction records, firearms registration (and separate program review), handwriting specimens of fraudulent cheque authors, and publication of the Gazette. These services are available, at no cost, to all accredited Canadian police forces, allied international law enforcement agencies, the Canadian criminal justice system and federal and provincial government departments.

Identification Services started with the establishment of the Central Fingerprint Bureau in 1910. In 1966, at a federal/provincial conference on organized crime, the federal government reaffirmed its desire to maintain and expand these services and to offer them at no cost as a Canadian police service. Fingerprint automation, pioneered by the force, was completed in 1981/82. More recently, criminal history files have been microfilmed and automated, permitting instant field access to complete records which in the past took up to six weeks to provide manually. The Canadian Police Services Information Centre, linked with Washington, provides a 24-hour information service to the police community. Fingerprint searches for non-criminal purposes are carried out to assist in processing certain passport and visa applications and some employment applications.

BENEFICIARIES

All accredited police agencies in Canada, allied international police agencies and other federal government departments.

EXPENDITURES ($000)

	83/84	84/85
Gross expenditures	19,757	22,419
Revenue	-	-
Net expenditures	19,757	22,419
PYs	450	446

OBSERVATIONS

Improved technology has affected Identification Services, allowing improved services with significant cuts in person-years in the past two years and projected for next year. The developments in identification automation have been viewed very positively in the police community nationally and internationally.

These services are viewed by police across Canada as essential for efficient and effective law enforcement. The adequacy of the information bases depends entirely on the participation of police forces in submitting the required information. The better and more complete the participation, the more effective the service will be. Given the benefits derived by all police, not least the RCMP, any attempts at cost recovery -- which might inhibit police participation -- could reduce the overall effectiveness of law enforcement. The RCMP is currently examining ways of recovering costs for civilian searches (e.g. for visas and employment).

Participation is very good for all data bases with the exception of fraudulent cheques, which is used primarily by larger police departments with specialized fraud units, particularly Montreal and Toronto. The force is developing strategies to ensure that this too is a national system.

Although larger forces are developing local identification systems, these cannot replace a national system. However, these developments underscore the importance of the development of uniform protocols and standards, for example, for fingerprinting and photographs, to ensure compatibility of systems and minimum standards of quality.

ASSESSMENT

Identification services are efficiently and effectively run and are essential for effective policing at municipal, provincial and national levels. In the view of the study team there is no alternative source for these services.

Given the development of local systems, the RCMP role in the development and promotion of standards takes on even greater importance.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the status quo

   Pursue efforts at cost-recovery of civilian searches.

2. Close the Fraudulent Cheque Section

   Despite its limited and uneven use, the Fraudulent Cheque Section provides a valuable service which can be offered only at a national level. Furthermore, the RCMP is developing strategies to encourage contribution to and use of the service more consistently throughout the police community.

3. Cost recovery

   Because the service depends on the quality of participation of police forces across Canada in sending in the required information and fingerprints, the introduction of cost-recovery could jeopardize the quality of the program. On the other hand, most of the services have become integral to policing and are very highly valued in the police community. Cost-sharing of the costs of Identification Services could, then, be considered in the context of the renegotiation of contracts.

PUBLICATIONS, DISPLAYS, MUSICAL RIDE AND BAND
Royal Canadian Mounted Police

OBJECTIVES

The overall public relations effort in the RCMP is directed towards the: enhancement of the public image of the RCMP and hence Canada; improving relationships with the media; increasing public awareness of the police role; and ensuring better informed policemen regarding new trends, new legislation, etc., thereby improving the overall efficiency and effectiveness of police services provided.

AUTHORITY

RCMP Act 21(2)

DESCRIPTION

The formal public relations function within the force is carried out through the Public Relations Branch, the Musical Ride, the RCMP Band and the RCMP Museum. The Public Relations Branch, located at RCMP Headquarters, Ottawa, is responsible for liaison with the media and the public. Additional services provided include maintaining the official history of the force, publishing the RCMP Quarterly (sold to members of the force and the public) and the RCMP Gazette (issued to accredited law enforcement agencies on a restricted basis), and developing and maintaining official RCMP displays.

The Musical Ride and the RCMP Band are highly visible and widely known public relations entities for both the RCMP and Canada. Tours conducted throughout Canada and abroad (in consultation with External Affairs) support government objectives and have made them internationally recognizable symbols of Canada. The band devotes particular attention to youth through school concerts and clinics and to the aged through a visitation program.

The RCMP museum is located at "Depot" Division, Regina, Saskatchewan, and is open to the public all year. It documents and displays the force's history, which is a major part of Canadian history.

EXPENDITURES

	83/84	84/85
Expenditures	$7,703,000	$7,437,654
PYs	132	135

Cost Breakdown 1984/85	Expenditures	PYs
Public Relations, publications and displays	$1,167,506	33
Musical Ride	3,500,311	55
Band	2,515,777	44
Museum	254,060	3
TOTAL	$7,437,654	135

OBSERVATIONS

An evaluation of the program is nearing completion but results are unavailable. While impossible to quantify, the program, particularly the Musical Ride and band, are generally considered important national symbols both within Canada and internationally. The force views the public relations functions as crucial to community relations and for improving the public support necessary for effective policing. While not an integral part of police operations, curtailment of these programs could bring strong public reaction in view of their traditional role in Canada.

A proposed reorganization of the "N" Division in which the Musical Ride and band are now located will bring these activities under the same management as other community relations activities. The force has already instituted a fee for the Musical Ride ($1500) and recovers all costs exclusive of salaries for foreign tours.

Some representatives of other riding associations have suggested that the RCMP could replace most of the members of the Musical Ride by using members of these associations, in RCMP uniform, on a voluntary basis. These associations (e.g. Governor-General House Guards) perform similar functions with highly-skilled riders. Similar arrangements could be made for the band. An audit of "N" Division indicated that members of the band are often asked to respond to questions about the force and law enforcement

that civilian musicians would not be able to field. Futhermore, the use of non-members could dilute the value and impact of these activities as a national symbol.

ASSESSMENT

As public and community relations are an integral part of policing and this program enhances the image of the RCMP, it likely contributes to the effectiveness of their prevention and law enforcement activities. It is impossible to quantify the benefits but it is safe to say that these activities are not integral to police operations. Nevertheless, in the view of the study team, the Musical Ride, the band and the museum have become immportant national and international symbols and RCMP publications are valued within the police community.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the status quo and continued attempts at cost-recovery.

2. Use skilled volunteers to perform Musical Ride and band functions.

3. Abolish the Musical Ride and band program.

The team was divided among the three alternatives: some argued that the non-quantifiable benefits of the programs and their importance as a national symbol justified the status quo (with continued attempts at cost-recovery); some argued that the use of volunteers could radically reduce costs without jeopardizing the symbolic value of the program; and some argued that the program was a luxury which the federal government can no longer afford.

PRIVATIZATION WITHIN THE RCMP
Royal Canadian Mounted Police

DESCRIPTION

Currently, the RCMP makes relatively little use of private sector services. In the view of the study team, a number of in-house support, technical and professional services could be relatively easily contracted-out with minimal disruption:

a. Post Garage Services: While most force vehicles are now serviced outside, the force maintains 10 post garages. Contracting these services out would reduce the Transport Management Program by up to 42 person-years.
b. Design and tailoring: The force employs 39 person years at Headquarters, Depot and 'N' Division to design and tailor clothing. In all other divisions, services are contracted out. Contracting-out tailoring services would save up to 39 person-years.
c. Printing: The RCMP employs 22 person-years in the Materiel Management Program to provide printing services. All these positions could be eliminated by use of contract services.
d. Systems Analysis and Development Programming: In part because of security concerns, the RCMP has been reluctant to use private consulting for electronic data processing and telecommunications Services. Much more development work for application systems could be contracted-out. Currently 81 person-years (with a total budget of $3,239,885) are employed in systems analysis and programming. Some of this could be contracted-out.
e. Photographic Services: Within Identification Services, the RCMP employs 53 person-years (and a total budget of $2,280,023) to provide photographic services to the force. This includes black and white and colour processing services, assistance to security personnel by provision of photographers, maintenance, repair and evaluation of equipment, design and modification of special equipment and production of videotape and sound-slide materials. While some of the services are devoted to tailoring equipment and products for police purposes, much more use could be made

of contract services in processing, maintenance and repair. The RCMP has hesitated because of concerns about security and confidentiality.

f. Food Services: The RCMP provides mess services in nine Divisions, including Headquarters, Depot Division and the Canadian Police College. The RCMP attempts to recover, through sales revenue, 100 per cent of the direct production and serving salary costs and 100 per cent of the food costs. In 1984/85, 84 per cent of these costs were recovered; in 1985/86, over 90 per cent will be recovered; and by 1987, full cost-recovery will have been achieved (except for administrative overhead). The administrative overhead is slightly over $1 million and the 1984/85 operating deficit approximately $1.7 million. One hundred and five food services and 19 administrative and policy person-years are employed.

In 1980, Treasury Board requested the RCMP to examine alternatives to their in-house food services. On the basis of the results of the RCMP study, Treasury Board approved the retention of in-house food services. On the basis of experiments with catering firms, the RCMP has concluded that contract services are not feasible for relatively low-volume messes. In one case, for example, the contractor demanded progressively increased subsidies and in another, the contractor refused to renew the contract because of difficulties in meeting profit targets. While larger messes could be privatized, the RCMP has been reluctant to move in this direction because of labour relations concerns, possible instability in operations, need for security of privileged conversations and because contracting out only the largest services, while maintaining the in-house messes, would be somewhat more expensive than total in-house services.

The RCMP attaches a good deal of importance to the role of the mess in providing a secure meeting place which contributes to the morale and "esprit-de-corps" of the force and in maintaining force traditions.

ASSESSMENT

Although no fiscal savings are likely, considerable savings in person-years could be achieved by increased use of contracting-out, in the view of the study team.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Contract out:
   a. post garage services;
   b. design and tailoring; and
   c. printing.

2. Increase use of contracts in:
   a. systems analysis and programming; and
   b. photographic services

3. Initiate tender process for contracting food services in the largest messes and all other messes where feasible. If some smaller messes do not prove feasible for contracting-out, increase cost-recovery to help defray administration overhead costs.

EMERGENCY PLANNING
OVERVIEW

BACKGROUND

In Canada, all levels of government have some responsibilities for and are involved in emergency planning and preparedness.

The federal government is responsible for emergency planning in the specific spheres of federal jurisdiction as outlined in section 91 of the BNA Act and for "national emergencies" under the residuary power and the Crown prerogative. Except for the War Measures Act and the Energy Supply Emergency Act of 1979, there is at present no comprehensive legislation to deal with emergencies, although Cabinet has recently approved drafting instructions for such legislation. Existing emergency planning organizations have, therefore, been established through the use of the Crown prerogative and by Cabinet decisions.

Provinces are responsible for emergencies of a provincial and local nature. Every province has comprehensive emergency legislation establishing an emergency measures coordinating agency (EMO) empowered to coordinate departmental plans and enforce departmental accountability. These agencies are also responsible for coordinating and, in many cases, mandating municipal emergency plans. The threshold between a "national" and "provincial" emergency and the issue of who is responsible for operations in case of "national" emergencies have yet to be defined clearly. This is a source of disagreement with several provinces, notably those which have a strong emergency planning capability such as Alberta, British Columbia and Quebec.

The federal emergency planning program began in 1948 as one of civil defence for war, and continued as such until 1966, when Cabinet expanded the mandate of the then Canada EMO to include peacetime disaster planning and coordination. Peacetime emergency planning became preeminent after the 1973/74 Cabinet review of crisis management arrangements.

In its 1980 review of emergency planning, Cabinet adopted the following principles which have set the approach and the framework for emergency planning within the federal government and in its relations with provinces.

All levels of government in Canada have a responsibility to plan and prepare for emergencies for which an adequate response goes beyond what might reasonably be expected to be provided by private means.

The initial responsibility for meeting peacetime emergencies normally rests with those directly affected.

Where government action is required, the sequence of responsibility would normally start at the local level, move to the provincial and, finally, to the federal level.

Government emergency planning is most effective where responsibilities, resources and aspirations of federal, provincial and local governments are merged through cooperative planning into mutually acceptable arrangements covering the preparation for and response to emergencies and their consequences.

Such joint planning seeks to develop strength by providing a common purpose for separate jurisdictional authorities. Plans and preparations undertaken by the federal governnment in this respect emphasize operations related to areas of federal constitutional responsibilities and large-scale disasters.

The planning to meet a war emergency is founded on the national state of preparedness which will be achieved through implementation of policies related to peacetime emergencies, plus a determination of what further measures will be necessary to meet a war emergency.

Mandated emergency agencies in all provinces agree implicitly with the above principles. Six provinces and the two territories have signed memoranda of understanding with the federal government endorsing the above and committing themselves to cooperate in emergency planning for both peacetime and wartime. The remaining provinces have indicated their willingness to cooperate and share resources, provided the issues of constitutional jurisdiction and of respective roles and responsibilities are clarified.

On the occasion of its 1980 review, Cabinet entrusted Emergency Planning Canada (EPC) with the responsibility for comprehensive emergency planning policy development and policy coordination under the guidance of the Interdepartmental Committee on Emergency Planning. EPC was

also charged with the overall coordination with provinces and the administration of the Joint Emergency Planning Program and the Disaster Financial Assistance Program. In addition to the above, EPC is responsible for emergency situation monitoring, federal crisis management preparedness training and public information services which it delivers directly through its headquarters administration, 10 regional offices, the Canadian Emergency Preparedness College at Arnprior and its NATO attaché.

The Emergency Planning Order of 1981 (PC 1981-1305) assigned emergency planning and preparedness responsibilities for both wartime and peacetime to all departments and agencies. They are responsible for emergency planning related to their normal area of activity and are the delivery mechanisms for specific federal emergency response and assistance plans. Departments and agencies are directed to assume the lead responsibility in emergencies falling within their areas of responsibility. The Emergency Planning Order also directed the creation of 11 national emergency agencies. At that time a five-year plan for implementation of the above was proposed and accepted by Cabinet. However, due to restraints, the annual level of funding required to reach these goals could not be made available and the time-frame had to be extended.

ISSUES

Absence of Clear Policy and Priority

Emergency planning has not been given a high priority across the government for a number of years. There is a general recognition of its importance and desirability but there is no sense of urgency. In the absence of a clear government priority, departments tend, in time of restraint, to allocate their efforts and scarce resources to areas of immediate priorities and high visibility, rather than to long-term hypothetical and intangible needs. Even where resources have been allocated by Cabinet, some departments have not used them. Despite the 1981 Planning Order, some departments have not developed plans or have done so very slowly. Some national emergency agencies still have to be established. In the area of wartime planning, an area of undeniable federal responsibility, there has been little planning for the last 10 years. Indeed, in the view of the study team, Canada is not meeting its civil protection war preparedness commitments to NATO. Provinces have expressed concern about the absence of war planning. At the

forthcoming ministerial federal-provincial conference, scheduled for early 1986, they are likely to press the federal government to focus on this issue and take a decision on whether or not it will get involved in wartime planning. Provinces have implicitly or explicitly indicated their readiness to cooperate with the federal government in this area.

In the view of the study team, there is an urgent need to clarify federal policy with respect to both wartime and peacetime emergency planning, to determine its priority and in the hypothesis of an affirmative decision to strengthen the federal internal machinery and to reinforce federal-provincial consultations at the ministerial level.

By international comparisons, Canada is spending little in this area, $1 per capita for both types of emergencies, compared to $40 per capita in Switzerland, $28 per capita in Sweden and $25 per capita in the United States on war preparedness alone. To increase Canada's preparedness would not require vast sums. The cost of a war preparedness program is estimated to range from $50 to $200 million over a five-year period, depending on the scale of the program. The infrastructure put in place for war emergencies could also serve for peacetime emergencies and could be developed in consultation and cooperation with the provinces. The other major need relates to the replacement of the Arnprior Canadian Emergency Measures College which would require a capital investment of $15 to $20 million. This college is dedicated to education and training deemed fundamental to planning and preparedness. It is considered a high priority by all jurisdictions. The study team believes other programs need not be expanded over their current levels.

JURISDICTION

Since 1980, there has been a considerable improvement of relations between EPC and provincial emergency planning authorities. This is in large part due to the initiative of EPC in developing regular and effective consultation mechanisms, to the establishment of the Joint Emergency Planning Program (JEPP), to the involvement of provinces in the development of the Arnprior training and education program, the general satisfaction with the disaster financial assistance arrangements and the efficient service EPC has provided to provinces. However, the issue of

respective jurisdiction, especially regarding "national emergencies" versus "provincial emergencies", is still outstanding, "national emergencies" never having been clearly defined in some provinces' view. The Emergency Planning Order directing the development of departmental plans and national emergency agencies for both wartime and peacetime emergencies without prior consultations with provinces has exacerbated this issue. While the proposed legislation on Safety and Security in Emergencies will contribute to the clarification of what is a "national emergency", there is a need, the study team believes, to resolve with provinces the issue of respective jurisdictions and subsequently tackle the question of respective roles and responsibilities with respect to both peacetime and wartime emergency planning, preparedness and response.

Federal Emergency Planning and Organization

Operational responsibility for the federal government's planning, preparedness and response to actual emergencies has been decentralized to departments which have the functional expertise necessary for managing the response, including assistance provided to provinces. The development of departmental plans and national emergency agencies directed by the Emergency Planning Order is very uneven across departments and agencies; some departments and agencies are quite advanced while others are lagging or have done nothing at all. There is at present no mechanism or organization mandated to ensure compliance by departments and agencies. Furthermore, departments and agencies developing plans often do so in relative isolation from one another. As a result, there is no unity of direction at the federal level and provinces often complain of the numerous and unrelated requests of federal departments and agencies without due reference to EPC or the mandated provincial emergency planning agency and the absence of a clear overall federal policy.

EPC, which is technically responsible for policy coordination and comprehensive policy development (through the channel of the Interdepartmental Committee on Emergency Planning), has in fact no authority to ensure that departments discharge their responsibilities or to ensure a common direction, coherence and coordination to the plans and in relations with provinces. While departments should, in the view of the study team, retain the lead role in preparing and responding to emergencies coming within their authority, there is a need for a strong central organization

with a clear mandate to give direction, guidance and support, to ensure compliance, to take charge when lines of responsibility are not evident or nonexistent and to ensure coordination, both within the federal government and with provinces.

In its present form, in the view of the studys team, EPC is unable to fulfill this role adequately in its present form. It has no separate existence. It is attached to the Department of National Defence which negatively affects its credibility as federal coordinator and vis-a-vis the provinces which suspect it could become subservient to DND in a major disaster or war situation. Its current administrative arrangements stem from a patchwork of ad hoc decisions made over an extended period. These arrangements are administratively anomalous, accountability is blurred and the agency's effectiveness is vulnerable to unintended consequences of organizational or personnel changes outside the agency's control. To be most effective, the study team believes EPC's mandate, role and responsibilities would need to be given a basis in law.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Consultation with provinces to clarify the issue of jurisdiction and respective roles and responsibilities.

2. A legislated mandate for EPC to coordinate federal civil emergency planning and preparedness.

3. Clarification of the role and responsibilities of departments and agencies to ensure compliance at the federal level and to promote harmonious federal/ provincial working arrangements.

EMERGENCY PLANNING TRAINING AND EDUCATION
Emergency Planning Canada

OBJECTIVES

The objective of this program is to provide to Canadians who have responsibilities for planning and directing emergency response operations the necessary training, skills and techniques required to effectively carry out these responsibilities.

AUTHORITY

There is no statutory or regulatory authority for this program. It is authorized by the Main Estimates.

DESCRIPTION

Courses in civil defence were first conducted in Ottawa and Hull in the early 1950s. In 1954, the RCAF Base at Arnprior was converted for use as a training centre and was named the Canadian Civil Defence College. In 1958 the name was changed to the Canadian Emergency Measures College. Up until the early 1970s all courses offered were oriented to wartime emergency planning. Following the Dare Report in 1974, training for peacetime emergency response was introduced into the curriculum in order to meet increasing requirements in this area.

From 1974 to 1978, the shift of emphasis to peacetime courses was completed. As peacetime emergencies increased in frequency across the country, the demand for training grew as well. From a low of 20 courses and attendance of 400 students in 1978, in 1985/86 there are over 100 courses with 2,500 students attending. These orientation and training courses encompass a variety of emergency-related subjects. Chief among these are plans and operations for peacetime emergencies, plans and operations for war, emergency health and welfare services, transportation of dangerous goods, emergency exercise design, community shelter planning, and radiological defence. Four entirely new courses have been added in the last six years and several more are being planned to meet the need for more advanced and specialized training for emergency responders and planners in communities across Canada. In addition to the above, a special course is held several times each year for mayors and elected municipal officials in recognition of their significant responsibility for emergency planning and

response operations. As well, a major symposium is held every year to examine a selected emergency preparedness topic in depth. The symposium brings together large numbers of emergency planners representing all orders of government, the private sector and academic institutions. In 1984, the symposium focused on high technology and its potential applications in emergency preparedness.

Courses are offered free of charge to participants, including the cost of tuition, travelling expenses, food and lodging.

This program is conducted by the Training and Education Division, a component of the Plans Branch of EPC. The division includes five education officers, a training support element of five clerks and technicians and an administrative support element of seven persons with a program director in charge. Additional staff from other federal government departments are present from time to time to assist in course preparation and delivery. Public Works Canada maintains the training, residence and other buildings on the site. Student meals are provided by a catering firm under contract. Security is provided by the Corps of Commissionaires under contract. The central training facility at Arnprior provides 97 per cent of the training. The remainder is provided by staff at training seminars conducted in various locations across Canada.

Appointed officials and emergency planners from the three levels of government including mayors, elected municipal officials and members of the private sector are eligible to participate in this program. The majority of students (86 per cent) are from the local and provincial levels of government and are nominated by the provincial emergency coordinating agencies. Federal candidates for training are approved by the departmental officials responsible for emergency preparedness (13 per cent). Members of the private sector (1 per cent) may be recommended by the province or territory and are usually individuals responsible for a firm's safety and preparedness program.

It should be noted that through its Joint Emergency Planning Program (JEPP), EPC supports some training programs at the provincial and municipal levels. In addition, the Memoranda of Understanding signed with several provinces and the territories provide for training and education programs by both levels of government to support each other's emergency preparedness aims. The public information

activities of EPC also complement the Emergency Planning Training and Education Program through the production and distribution of information materials on a wide variety of emergency-related subjects. These publications include pamphlets on self-help measures for selected emergencies, fact sheets on federal emergency planning programs and a quarterly digest of articles on topical issues in the emergency planning field. They also include technical documents, manuals on emergency planning and response procedures for distribution to more specialized emergency planning audiences.

EXPENDITURES

	83/84	84/85	85/86
Salaries			475,000
O&M			2,042,000
Capital			325,000
TOTAL	$1,764,739(1)	$2,477,100(2)	$2,842,000
PYs	8	8	18(3)

Notes: 1 Actual
2 Forecast
3 10 PYs transferred from PWC effective Oct. 1, 1985

Funding for this program comes from EPC A-Base.

Distribution of Payments By Provinces And Territories

The following table shows the distribution of student weeks by sector and province or territory.

Student Weeks, by Sector and Province

Province or Territory	Provincial Nominees	Provincial-Federal Nominees	Federal Nominees	Private Sector Nominees	Total	%
B.C.	211	10	17	8	246	12%
ALTA	90	15	15	14	134	7%
SASK	98	12	9	3	122	6%
MAN	180	10	11	2	203	10%
ONT	314	4	81	5	404	20%
QUE	202	4	55	3	264	13%
N.B.	173	11	11	2	197	10%
N.S.	138	18	13		169	8%
P.E.I.	71	7	5		83	4%
NFLD	71	11	5		87	4%
YUKON	14	6	3		23	1%
NWT	67	5	9	3	84	4%
TOTAL	1629	113	266	40	2016	99%

BENEFICIARIES

Canadians with planning and operating responsibilities in the emergency preparedness field.

OBSERVATIONS

Education and training is considered one of the most effective and cost-beneficial methods of delivering the concepts for emergency planning and preparedness at all levels of government. To meet both its peacetime and wartime emergency planning responsibilities, the federal government must have available a trained cadre of emergency planners and doers at all levels of government and in all areas of the country.

Organizations consulted at the provincial, territorial and municipals levels expressed a high degree of satisfaction with the emergency planning education program conducted by EPC. Provinces, with the exception of Quebec, rely heavily on the Arnprior courses and several have no other resource to train staff. The demand from most jurisdictions appears to outstrip the number of places available for them. As well as wanting an expansion in the number of places available and enlarged staffing for the Arnprior college, a number of provinces suggest the extension of existing courses and materials such as those

relating to dangerous goods, computerized simulation exercises, and risks analysis, as well as the updating of the war planning course, development of courses in the area of taskforce coordination training, professional planning and training with respect to emergency public relations. Development of regional training by EPC in areas where large numbers of people need to be trained, such as health and social services and where regional specificity is important to effective delivery, is also suggested.

This program is used primarily to train the "trainers" for emergency planning and preparedness who then return to serve in their community on a continuous basis. Except for Alberta and Quebec, no province has extensive facilities or programs for training. Programs offered in Alberta complement, rather than overlap, the training provided by EPC.

This program is seen as providing benefits to the national emergency planning community through a central facility, which allows the development of national standards, and provides opportunities for pooling resources, developing common approaches, and for exchanging information. It is also suggested that for an outlay of slightly under $3 million the federal government buys a great deal of goodwill, visibility and benefit.

The courses for mayors and other elected officials are considered to be successful. They are seen as sensitizing elected officials to their emergency planning responsibilities and the need for action as well as providing them with peer support and a network of contacts across Canada. These courses, however, can accommodate only a small number of eligible municipal officials wanting to attend. While there is no doubt that this course is useful, one may question whether it is the role of the federal government to train municipal officials or whether this responsibility should more appropriately be left to the provinces which have jurisdiction over municipalities.

The tuition costs and the attendant living and travelling expenses are currently the responsibility of the federal government. Provinces and municipalities bear indirect costs of salaries of provincial and municipal participants and their replacement. Given the low level of funding now available from most provinces and the high costs of transportation, it is suggested that cost-recovery

would lead to a reduction in the number of participants, increased pressure on provinces and, ultimately, to increased provincial demands for funding under the Joint Emergency Planning Program.

The range of courses offered by the Federal Study Centre at Arnprior covers areas of municipal and provincial responsibility and the range of clientele includes predominently provincial and municipal emergency planners (86 per cent of all participants in 1984/85). It is an open question whether the education and training program should cover areas of provincial and municipal jurisdictions or whether it should concentrate in areas of high specialization of national interest and on the development of basic course packages. Many jurisdictions have no training facilities or programs. It is not clear whether this is because of the existence of the federal program or whether it is due to low provincial priority and resource availability.

ASSESSMENT

There is a recognized need for an emergency planning education and training program. In the view of the study team, this program is successful but cannot satisfy the demand, in terms of number of places available, desired scope or quality of facilities. If the government were to place a higher priority on emergency planning education and training, this program would have to be expanded. If the respective roles and responsibilities of the two levels of government with respect to emergency planning were clarified, the program could be refocused on federal and national needs.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Restructure the program, focusing on federal and national requirements, leaving to the provinces and the municipalities responsibility for training in areas of their responsibility.

2. Increase expenditures on the program, expanding the number of highly specialized courses available, delivering courses outside Ottawa and replacing outdated training facilities at Arnprior.

EMERGENCY PLANNING AND RESPONSE COORDINATION
Emergency Planning Canada

OBJECTIVES

The principal objectives of the work of Emergency Planning Canada are to save the lives of Canadians threatened by emergencies of any kind; to reduce the amount of human suffering resulting from emergencies; and to mitigate property loss and damage caused by emergencies.

This program encompasses the total activities of Emergency Planning Canada (EPC) as a federal agency. It thus incorporates administration of the following programs: Joint Emergency Planning (JEPP), Emergency Planning Training and Education, Worker's Compensation Agreements, Emergency Planning Research Fellowship, and Disaster Financial Assistance Arrangements (DFAA), which are reviewed separately.

AUTHORITY

1980 Cabinet Decision (418-80RD(C)

DESCRIPTION

In addition to meeting its own emergency planning responsibilities, the EPC consults with the provinces on a number of measures such as:

a. a Joint Emergency Planning Program, under which the federal government will participate in the funding of projects which contribute to improved national emergency preparedness;

b. arrangements under which provinces may receive financial assistance from the federal government in meeting major disasters that would otherwise impose an excessive burden on their economies; and

c. arrangements to alleviate hardship to individuals arising from relatively small but locally severe disasters.

The objective of civil planning for war is to enable the nation to be placed swiftly and effectively on an appropriate footing to meet the civil requirements arising

from hostilities involving Canada. Thus the Canadian civil structure must be prepared:

a. to support and maintain the Canadian Armed Forces;

b. to meet civil commitments to NATO, including those related to North American defence;

c. to meet the additional burdens which a war situation, including the support of allies, may place upon Canadian social, political and economic activities; and

d. to mitigate against the effects of foreign attack on the Canadian population, essential industries and services.

The program history of emergency planning has reflected policy evolution and shifts over almost four decades. The program began as one of civil defence for war, and continued as such until 1966, when Cabinet expanded the mandate of the then Canada EMO to include peacetime disaster planning and coordination. Peacetime emergency planning became preeminent after the 1973/74 Cabinet review of crisis management arrangements.

Emergency Planning Canada was established in its present configuration by a 1973 Cabinet decision which established an Emergency Planning Secretariat in the PCO and a National Emergency Planning Establishment attached for administrative support purposes to DND. These two components were integrated into Emergency Planning Canada in 1980, under the minister responsible for emergency planning, currently the Minister of National Defence.

Increasing contact and cooperation with the provincial governments, especially since 1981, in pursuit of a national capability and uniformity of preparedness standards, has led to the emergence of cooperative programs such as JEPP and DFAA.

Currently, for purposes of the FAA, EPC is attached to the Department of National Defence. The relationship with DND is one of administrative convenience. On policy and program matters, EPC is responsible, through its executive director, directly to the minister responsible for emergency planning. Administratively, EPC regroups two broad branches, one responsible for the development of plans,

evaluation and education and the other for operations. Under the guidance of the Director General of Operations, an important element of EPC's structure is its network of 10 regional offices located in each provincial capital. They are important contact points for policy consultation, planning and program delivery coordination, as well as information reception and dissemination. They interact continuously with the public, with provincial government officials and with federal regional departments on emergency matters.

Comprehensive policy development, emergency planning coordination, intergovernmental consultation, emergency situation monitoring, federal crisis management coordination, national emergency preparedness training and public information services are delivered directly by Emergency Planning Canada through its headquarters administration, 10 regional offices, the Canadian Emergency Preparedness College at Arnprior and its NATO attaché. Much of this delivery is accomplished through an extensive array of standing and ad hoc consultative committees -- federal interdepartmental, federal/provincial, NATO alliance forums, Canada-U.S. groups, etc.

Emergency planning and preparedness responsibilities for both peacetime and wartime are assigned to all federal departments and agencies by the Emergency Planning Order (PC 1981-1305). Federal departments and agencies are, therefore, responsible for emergency planning related to their normal areas of activity and are the delivery mechanisms for specific federal emergency response/assistance plans. In addition, departments and agencies are, under the Emergency Planning Order, directed to assume lead responsibility in emergencies falling within their areas of responsibility. They must also provide, from their own resources, such assistance as may be required to another department which has been assigned responsibility for an emergency. Eleven departments have additionally been directed to develop and maintain plans for the establishment and operation of 11 National Emergency Agencies (Food, Telecommunications, Manpower, Energy, Financial Control, Health and Welfare, Industrial Production, Public Information, Construction, Housing Accommodation and Transport) and to the extent possible and desirable, to secure the cooperation and active support of the private sector and the provinces. Their combined efforts comprise what may be called the "horizontal" federal emergency planning program under the coordination and

guidance of EPC. Under the Policy and Expenditure Management System (PEMS), emergency planning resources are allocated government-wide from the Services to Government Envelope by the Cabinet Committee on Government Operations on the recommendation of the minister responsible for emergency planning.

This program is also implemented through the emergency planning and response arrangements of the provincial and territorial governments, through the undertaking of joint preparedness projects funded by JEPP, through the coordination of provincial and federal response plans, through consultations and input to policy and program proposals, through the allocation of financial assistance to disaster victims in accordance with criteria for federal reimbursement and through the nomination of candidates for EPC-managed training courses.

EXPENDITURES

Emergency Planning Canada

	83/84	**84/85**	**85/86**
Salaries	$3,324,302	3,500,000(est)	3,752,932
O&M	2,198,223	3,090,083	3,696,000
Grants/ Contributions	3,471,391	5,623,574	6,398,000
Capital	354,005	908,804	1,060,000
TOTAL	$9,347,921	13,122,641	14,906,932
PYs	79	80	83*

*Note: Excludes transfer effective Oct. 1, 1985 of 10 PYs from PWC to EPC covering administrative staff at the Canadian Emergency Preparedness College.

Total Federal Emergency Planning Resources*

	84/85	**85/86**	**86/87**
$000	31,165	37,386	37,963
PYs	348	402	412.4

*Note: Based on resources reported by departments in 1985 Spring MYOPs. Includes EPC expenditures from the previous page.

BENEFICIARIES

The principal beneficiary of EPC's emergency planning and resource coordination program is the Canadian public as it is the basic aim of all emergency preparedness activity to save lives and minimize and mitigate human suffering and property damage. Both information and training dealing with emergency planning and response are provided directly to members of the public by EPC.

On a procedural basis, given the delivery mechanisms involved, the intermediate client groups with which EPC most frequently interact, and whose efforts to improve emergency preparedness may be supported in various ways, include the provincial/territorial governments, municipal governments, other federal departments and agencies (both centrally and regionally), public interest groups and associations, NATO and NATO member countries and research contractors.

OBSERVATIONS

Emergency planning has not been given a high priority across the government for a number of years. This may be attributed to the absence of a clear Cabinet priority and direction. The budgetary restraints of the last seven years have led departments to allocate scarce resources to areas of immediate priorities, high visibility and quick payoff rather than to long-term hypothetical and intangible needs.

Plans and preparations undertaken by the federal government to respond to wartime emergencies are all-encompassing. Those connected with peacetime emergencies emphasize operations related to:

a. constitutional responsibilities in the federal sphere;

b. large-scale disasters;

c. the achievement of adequate and reasonably uniform standards of emergency services across the country;

d. risk analysis, warning and communications; and

e. coordination of federal efforts with those of the provinces.

Since 1966, the increasing frequency of peacetime disasters has led to more emphasis on this area and a downgrading of wartime preparedness. There has been a low priority for and little war emergency planning in the last 10 years. The state of preparedness has consequently deteriorated. In the view of the study team, the government should examine whether it should prepare for war emergencies and, if so, to what extent. It should also determine whether it does so on its own, entrusts provinces with this task while providing them with financial assistance and support, or whether it adopts a mixed approach with provinces and municipalities assuming local and provincial responsibilities, while the federal government completes the network through national networks and systems. To upgrade war planning and preparedness, whatever the approach employed, would be fairly expensive. Depending on the scope of the program, the cost could range from $50 million to $200 million over a five-year period.

The Emergency Planning Order directing departments and agencies to develop plans and requiring the setting up of 11 national agencies for both peacetime and wartime emergencies does not come to grips with the limits of federal powers, especially in peacetime emergencies. It was implemented without prior federal/provincial consultations. Provinces do have jurisdiction for provincial/municipal emergencies. The order was perceived to intrude into provincial jurisdiction for the planning for and the management of peacetime emergencies. Confusion is amplified by the use of the term "national emergency", a term for which there is no accepted definition. The creation of national emergency agencies with perceived broad authorities to plan and manage emergencies within their mandated areas further increases confusion. It is suggested by the study team that the issue of jurisdiction be clarified. This is seen as essential for cooperative action and would ensure support for the federal government, if it decided to proceed with wartime emergency planning and preparedness. It would also allow clarification of respective roles and responsibilities in the event of an agreed upon "national emergency".

The emergency planning order referred to above was made by means of the Crown prerogative power. Indeed, except for the War Measures Act which deals with war-related emergencies, the most serious kinds of public order emergencies and the Energy Supplies Emergency Act of 1979, there is no comprehensive federal legislation to deal with

emergencies. Ten statutes have limited provisions for specific types of emergencies. There are, therefore, large gaps in the existing legislative framework in this regard. Cabinet, however, has recently approved drafting instructions for comprehensive Safety and Security in Emergencies legislation. The proposed legislation does not deal with the specific responsibilities of departments and agencies, nor does it propose a statutory role or status for Emergency Planning Canada.

EPC is responsible for comprehensive policy development and emergency planning coordination at the federal level. This responsibility stems from a 1980 decision of Cabinet and has no other basis in law or regulations. Indeed, neither EPC's role, nor its existence, are mentioned in the Emergency Planning Order. Comprehensive policy development must be channelled to Cabinet via the Interdepartmental Committee on Emergency Planning, while the emergency planning coordination role of EPC is exercised through the interdepartmental committee. Chaired by the executive director, the committee's membership is supposed to consist of assistant deputy ministers. In practice not all departments accord it this level of representation. Departments and agencies are responsible for the preparation of their own departmental plans and, where so directed by the Emergency Planning Order, for setting up of national emergency agencies. The state of development of both plans and agencies varies considerably across the government, with some departments taking an active role, while others have done little. EPC has no power to compel departments to action, it can only plead and persuade. This applies at both the national and regional levels.

EPC has no statutory basis. The current administrative arrangements stem from a patchwork of ad hoc decisions made over a number of years. These arrangements are administratively anomalous, accountability is unclear and the agency effectiveness is vulnerable to unintended consequences of organizational or personnel changes outside the agency's control. Establishing EPC as a statutory and separate agency would strengthen its coordinating responsibilities both within the federal government and with provincial agencies, and in the provinces view, would lead to more cooperation and participation. In this context, the close relationship of EPC to the Department of National Defence (DND), which is responsible for the war defence functions, is seen as disadvantageous.

EPC has experience in the overall management of emergencies. In the view of the study team by clarifying and strengthening its role and clarifying the functional role of departments, both the "lead department concept" and the overall approach of the government to emergency planning would be strengthened. It would also help to meet the expressed concerns of provincial emergency agencies who want a "single window" to their respective jurisdictions on matters of emergency response planning and operations.

ASSESSMENT

In the view of the study team, EPC is impeded in carrying out its role as a central coordinator by the absence of clear government priority and policy, a statutory basis and the power to enforce the development of departmental plans and national emergency agencies. While EPC does an effective job of managing federal/provincial coordination, this effectiveness is less than it could be owing to the absence of a clear direction in federal emergency planning and the lack of clarity with respect to federal jurisdiction regarding peacetime national emergencies.

OPTIONS

Any alternative to the status quo requires, as a prerequisite, a decision on whether or not the government wishes to get involved systematically in emergency planning and preparedness for wartime and peacetime emergencies and to what extent.

The study team recommends to the Task Force that the government consider adoption of a positive emergency planning policy and priority accompanied by clarification of constitutional and operational jurisdictions as well as the strengthening of the federal internal machinery for emergency planning.

RESEARCH FELLOWSHIP EMERGENCY PLANNING
Emergency Planning Canada

OBJECTIVES

The objective of this program is to encourage study and research into ways of improving emergency preparedness in Canada by providing financial assistance to graduate students with an interest in this field.

AUTHORITY

The program is established under the Defence Services Program Vote 10, Grants and Contributions. EPC has signing authority.

DESCRIPTION

Instituted in 1966 to foster study and research into the mitigation of the effects of emergencies, this program complements EPC's ongoing research. Sponsored by EPC, it provides financial support to students pursuing graduate degrees in subject areas related to emergency planning. One research fellowship is awarded each year, at a basic value of approximately $11,000 per annum for up to four years of study.

EPC fellows have no formal obligation to the sponsoring agency, but it is hoped that exposure and training in this area will foster a continuing interest, especially in Canada.

This program is administered by the Association of Universities and Colleges of Canada (AUCC) on behalf of EPC. It is tenable at any university by EPC/AUCC agreement. Currently, the Institute of Environmental Studies, University of Toronto and the Disaster Research Center, Ohio State University, are approved. Preference is given to Canadian citizens who hold a Master's degree in Sociology, Geography, Political Economy or Urban and Regional Planning, although, candidates with a first degree in an appropriate area of study are also considered. Candidate selection, payments to students and fellowship advertising are carried out by AUCC.

EXPENDITURES

	84/85 Actual	85/86 Forecast
Grants/Contributions	$40,727	$60,000
PYs	-	-

OBSERVATIONS

There is no professional education in undergraduate or post-graduate levels available in Canada currently in the field of emergency planning. Emergency planning professionals are trained in the military, in the U.S. or other countries or through on-the-job training. In addition, because there is no formal education program in Canada, there is little or no academic research or study which would benefit both the academic and the emergency planning communities.

This program is under review with the intent of enlarging its scope and encouraging the development of courses in emergency planning in Canadian universities.

This program's intent is threefold: to provide a measure of awareness of the need for emergency planning; to attempt to foster disaster research carried out in Canada by Canadians; and to serve to recruit graduates who could work in disaster-related organizations. Given the program's small size, it can only be viewed as symbolic.

The specific research areas pursued by the beneficiaries of this program depend on the individuals' interest and personal selection, rather than on national emergency planning priorities.

A question which arises is whether this fellowship program should exist as a separate entity given the existence of the following programs: student loans; post-secondary education; and the Social Sciences and Humanities Research Council (SSHRC) research grants. It could be argued that the low priority accorded this area by students and laymen and its long-term importance warrants the existence of a special fellowship. Indeed, SSHRC has no specific priority for emergency planning and no Canadian university has a program in this area.

This program is very small; actual spending in 1984/85 amounted to $40,727, while the total budgeted for 1985/86 is $60,000. This level of funding is insufficient to build a meaningful research and professional capability.

ASSESSMENT

The federal government has a constitutional responsibility for civil emergency preparedness for wartime emergency and peacetime emergencies insofar as the latter fall within federal areas of jurisdiction or are national in scope. There is no study and research done at present in this area in Canadian universities, while the need for it and for highly trained persons is undeniable. In the view of the study team this program should be expanded. Encouraging the development of emergency preparedness courses could lead universities to take more interest in this area and to offer courses more widely.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Discontinue the program. This could be taken as a signal that the federal government no longer attaches interest in this area.

2. Maintain the program in its present form for symbolic reasons.

3. Program sufficiently to create one or two centres of excellence in the area of emergency planning research and professional training in Canada.

WORKERS' COMPENSATION AGREEMENTS
Emergency Planning Canada

OBJECTIVES

The objective of this program is to provide assistance to provinces/territories in meeting the costs of compensation paid to volunteer workers, or their heirs, who are injured or killed in the course of training for or carrying out emergency services work.

AUTHORITY

Bilateral agreements between the federal minister and provincial/territorial ministers which were signed between 1960 and 1963.

DESCRIPTION

The program began with the signing of bilateral agreements from 1960-1963. The federal government wanted to encourage volunteers to participate in emergency response work by ensuring that compensation identical to that applicable to the workplace was provided to volunteers injured or killed in the course of these activities. Provincial/Territorial Workers' Compensation organizations were not willing to extend such coverage without financial assistance. The existing agreements apply to "volunteer civil defence workers", interpreted to include volunteers engaged in work associated with peacetime emergencies. Cabinet authorization is currently being sought for bilateral agreements which will cover both peacetime and wartime contingencies. Under the existing arrangement, the federal government reimburses 75 per cent of the payments made by the Provincial/Territorial Workers' Compensation Boards.

Claims for compensation are submitted to Provincial/Territorial Workers' Compensation organizations using the same procedure as for work-related accidents. The workers' compensation organization determines the compensation to be paid as though the injury had occurred in a normal work situation. A claim is then made through the provincial Emergency Measures Organization for reimbursement by the federal government. These claims are processed through the Emergency Planning Canada (EPC) Regional Director who investigates to ensure that the injury or death was the result of emergency-related activities. If the

director is satisfied that this is so, the claim is forwarded to EPC Headquarters with a recommendation for payment. Claims receive a final review at headquarters and cheques are then requisitioned for payment from Vote 10 - Defence Services - Operating Expenditures.

The provincial/territorial Emergency Measures Organization must certify that workers claiming compensation were engaged in volunteer work associated with an emergency. The provincial/territorial workers compensation organization must certify that it has accepted the claim and specify the amount of money it has paid by way of compensation. The federal contribution is 75 per cent of provincial/territorial compensation paid.

EXPENDITURES

	83/84	**84/85**
TOTAL	$211,985	$ 69,959
Value of Payments		
British Columbia	$211,985	$ 66,737
Alberta	Nil	Nil
Northwest Territories	Nil	Nil
Yukon	Nil	Nil
Saskatchewan	Nil	Nil
Manitoba	Nil	Nil
Ontario	Nil	Nil
Quebec	Nil	Nil
New Bruwnswick	Nil	Nil
Nova Scotia	Nil	3,222
Prince Edward Island	Nil	Nil
Newfoundland	Nil	Nil

No person-years are devoted specifically to this function which takes a small portion of the regional directors' time each year.

BENEFICIARIES

Volunteer workers, or their heirs, who are injured or killed in the course of training for, or carrying out emergency services work.

Criteria for Eligibility: volunteer emergency services workers must have been registered by a provincial/

territorial emergency services official before beginning the work which resulted in injury or death.

OBSERVATIONS

Civil wartime emergency preparedness, response for which the federal government bears sole responsibility, requires all the basic infrastructure and resources that are essential to civil peacetime emergency preparedness and response. Moreover, since it is also responsible for peacetime emergency preparedness in areas falling within its specific areas of jurisdiction, as well as for emergencies that are national in scope under its responsibility "for peace, order and good government", the federal government must also have the capacity to prepare and respond to civil peacetime emergencies.

In terms of the needed human resources, the federal government can either rely on volunteers or put in place its own programs and hire the needed personnel on a permanent or contractual basis. This latter option is more expensive in financial terms and it does not provide the same encouragement to individual responsibility and initiative.

Provision of coverage under Workers' Compensation Arrangements guarantees a measure of protection for volunteers and undoubtedly increases the number of persons willing to participate in such work, contributing to improved civil defence.

Volunteers also afford more flexibility. Given the size of the country and the sparse population in many areas, local initiative and responsibility can assure a coverage which a government program might find difficult to equal.

Most of the compensation claimed under this program relates to air search and rescue in coastal provinces, notably British Columbia and Nova Scotia, provided by volunteers who operate their own planes. Air search and rescue is a federal responsibility coming within the mandate of the departments of National Defence and Transport. In this specific area of compensation, those two departments should reimburse EPC its share of costs, in the view of the study team.

The level of federal cost-sharing is set at 75 per cent. This may be considered high. Considering the federal government's responsibility in this area, however, the

attendant requirement for emergency preparedness and response, as well as the need to rely on sound local and provincial organizations which act as first line of defence, this level of sharing is defensible.

ASSESSMENT

In the study team's view this program complements rather than duplicates provincial programs. It is well administered and relieves the federal government from having to set up its own cadre of "emergency workers" and/or run its own compensation program. It implicitly encourages individual responsibility.

OPTIONS

The study team believes there is no other viable alternative but to continue this program. The study team recommends to the Task Force that the government consider authorizing EPC to renegotiate the agreements with the intent of updating them and providing coverage for wartime contingencies as well.

JOINT EMERGENCY PLANNING PROGRAM
Emergency Planning Canada

OBJECTIVES

The objective of this program is to encourage and support cooperation between federal and provincial governments in working toward a national capability to meet emergencies of all types with a reasonably uniform standard of emergency services through sharing in the costs of provincial and municipal projects which enhance the national emergency response capability.

AUTHORITY

There is no statutory or regulatory authority for this program. It has been established by a Cabinet Decison of October 9th, 1980 (418-80RD(C)).

DESCRIPTION

Experience has shown that emergency planning is most effective when the responsibilities, resources and aspirations of all orders of government are merged through cooperative planning. In October 1980, in the course of establishing the federal policy on emergencies, the Cabinet directed the establishment of a "Joint Emergency Planning Program" (JEPP) to be funded initially at a level of $6 million per annum. It is the key instrument of the federal government for promoting federal/provincial cooperation. Under this program the federal government shares with the provinces and territories the costs of undertaking approved emergency preparedness projects. It is administered by Emergency Planning Canada and takes the form of grants to federally approved projects. JEPP replaced a program which had been in effect since the early 1960s through which annual financial grants were provided directly to provinces and territories.

Project proposals must conform to terms and conditions prescribed by Treasury Board; have a clear objective which supports national priorities aimed at enhancing the national emergency response capability; have an agreed identified beginning and end with measurable points as appropriate; provide recognition of the federal involvement; and include a provincial commitment to the project in funds or in kind.

Among the key factors taken into account in consideration of project proposals are the following:

a. current national priorities for emergency preparedness;
b. the perceived need for and relevance to national priorities of the proposed project;
c. the degree to which the project is considered to enhance the overall national emergency response capability and contribute to a cooperative approach to emergency planning generally;
d. the level of emergency preparedness in the province concerned; and
e. the relative ability of the province to meet its emergency planning need.

There is no set formula or ratio for sharing of project costs. The ratio and maximum dollar amount of the federal contribution determined during the acceptance process are based on the factors presented above.

JEPP project proposals are submitted by provinces or territories to the Regional Director, Emergency Planning Canada. If the regional director is satisfied that the proposal meets the terms and conditions and other criteria as set out in the JEPP manual, it will be forwarded to the Director General, Operations, at EPC Headquarters with a recommendation for its acceptance, its rejection or its acceptance with amendments. Each project proposal is then considered by the EPC Senior Staff Committee. If a project is accepted, the Senior Staff Committee determines the maximum amount of federal money from the JEPP fund to be allocated to the project. Funds are allocated from an annual budget of approximately $6 million and are taken from the A-Base budget of EPC. The regional director monitors implementation of the project and must be satisfied that the project has been completed, or a predetermined progress point reached, before he/she recommends acceptance of a provincial/territorial request for payment. On long-term projects, periodic audits by the Audit Services Bureau of DSS may be carried out.

As stated earlier, each project is required to have an identifiable beginning and end and measurable progress points. Payments from the JEPP fund are made to provinces/territories only when these progress points have been reached and/or project completed. Payment is made in the form of a cheque payable to the provincial/territorial treasurer.

Many of the projects involve the purchase of needed communications and emergency response equipment to enhance provincial and municipal emergency operations capability. A significant number aim at improving emergency preparedness through the development and conduct of training programs on a variety of emergency-related subjects.

Through Memoranda of Understanding on Emergency Planning (MOUs), six provinces and the two territories have agreed with the federal government to negotiate multi-year preparedness projects under JEPP, to conduct training and public information programs that support each other's emergency preparedness aims, to share human and material resources in emergency situations and for each to provide a "focal point" for liaison on emergency planning matters.

In addition to JEPP and the MOUs, and as a complement to them, to further facilitate and regularize intergovernmental emergency planning matters, EPC organizes an annual conference of senior federal, provincial and territorial emergency planning officials thereby providing a high-level forum for discussion of policy, planning and operational questions of mutual concern. This conference has led to the creation of two federal/provincial task forces, one dealing with training of on-scene commanders and the other on wartime planning and concepts of operations. In addition, EPC has undertaken to develop a strong regional component of its operations. The agency maintains a regional office manned by a regional director and a small support staff in each provincial capital to provide a point of contact for ongoing liaison on emergency planning matters. Through their daily contact with provincial and territorial emergency planning officials, these regional directors facilitate the administration of federal emergency planning programs, stimulate provincial participation in various emergency preparedness activities and ensure that federal emergency planning initiatives mesh with those being undertaken at the provincial level.

EXPENDITURES

Financial

	83/84 Actual	84/85 Actual	85/86 Forecast
Expenditures-grants	$3,071,022	5,582,847	6,338,000

Distribution of Payments

	83/84	84/85
British Columbia	$ 13,861.00	$ 24,711.00
Alberta	Nil	325,000.00
Northwest Territories	26,389.00	57,649.55
Yukon Territory	Nil	53,571.75
Saskatchewan	18,152.68	125,263.52
Manitoba	264,987.14	483,770.57
Ontario	622,063.64	1,375,313.33
Quebec	1,611,549.21	1,249,010.00
New Brunswick	346,393.33	1,806,253.00
Nova Scotia	105,181.40	18,265.60
Prince Edward Island	43,818.00	30,606.00
Newfoundland	18,627.48	33,433.00
TOTAL	$3,071,022.88	$5,582,847.32

There are no PYs devoted exclusively to this program. All senior staff members of EPC are involved in the decision as to whether a specific project proposal should be accepted. The bulk of administrative work associated with the program is done by the 10 regional directors.

BENEFICIARIES

Provincial and territorial governments and, ultimately, members of the public in general.

OBSERVATIONS

This is a closed-ended program. It is also a small scale one with a maximum annual allotment of $6 million. The cost-sharing formula is flexible; the level of federal funding being determined by the importance of the project to national priorities.

It is well received by most provinces and territories; interest and participation grows every year. Most provinces, with the exception of British Columbia, use this program or plan to do so in the future. The federal contribution is acknowledged and is also well reported in the media.

It is directed at broad areas of national as well as local needs and serves to put into place a basic human, physical and procedural infrastructure to cope with both wartime and peacetime emergency. The scope and nature of projects undertaken varies considerably from province to province.

It is considered to have had a significant impact on improving the standard and level of emergency response capability. In many areas, it has served as a catalyst to the development of plans and preparedness. It has also allowed several provinces to acquire a capital infrastructure for emergency planning and preparedness which they would be unable or unwilling to finance on their own. In addition to their share of costs, provinces are committed to the maintenance and operation of these facilities.

With one exception, this program is perceived as a complement to, rather than a substitute for provincial and municipal emergency planning and preparedness. It serves to increase their effectiveness through acquisition of needed capital equipment, development of plans, development and training of staff and volunteers and development of exercises to test these plans.

While this program is having some success in terms of improving the standards of emergency preparedness across the country, disparities in the level of preparedness between provinces still exist. Some important national needs still have to be met such as, for example, communication systems, warning systems, shelters, training of a task force, etc.

The recent introduction of joint five-year planning through the Memoranda of Understanding signed with six provinces and two territories is seen as providing a greater degree of stability for provinces in the development of appropriate projects. The experience of the 1960s and 1970s, when federal direction and financing were perceived as volatile, had left a legacy of caution and hesitancy with respect to involvement in joint planning. While the federal/provincial climate in this area has improved considerably since 1981, there remains a certain anxiety about the continued existence of this program, in view of the fact that it has no statutory basis. Another factor of concern for less well-off provinces is the fear that the five-year planning could lead to a per capita allocation of funds which would serve them poorly given their small populations, low tax bases and their greater proportional needs.

If there were no joint planning or no federal cooperation with and involvement in emergency planning at the local and provincial level, the federal government would not be able to meet its constitutional and international obligations (NATO and NORAD) or would do so by duplicating existing and emerging provincial and municipal programs. This would be costly and would elicit a negative reaction from the provinces.

In the event of a major disaster, the federal government could well be blamed if it had not taken or was perceived not to have taken part in joint preparedness.

The approach of EPC with respect to JEPP, is reactive. It responds to provincial requests in broad areas of national responsibilities such as communications, training, and capital equipment. While the administration of approved projects is rigorous, the criteria for the selection of projects give considerable scope to provincial choice so that the ultimate project, while useful to the province or municipality, may not be of vital importance to national priorities. This approach may have been necessary to enlist provincial cooperation in the past. If, however, the government were to define a clear federal policy and federal role with respect to emergency planning and response, it would follow that this program should be more rigorously aligned to that role and better serve federal priorities.

ASSESSMENT

This program has been in existence for four years and, in the view of the study team, is progressively meeting its objective. It encourages and supports cooperation between the two levels of government in working toward a national capability to meet emergencies of all types with a reasonably uniform standard of emergency services. It is not perceived to duplicate or overlap with provincial programs. It is considered to be well administered, flexible and effective. Most provinces appear satisfied with it and the process of joint planning, although it is felt this process would be helped if the issue of respective jurisdictions and roles was clarified and, hence, federal priorities better affirmed. Most provinces want the program expanded.

OPTIONS

The study team recommends to the Task Force that the government consider the following:

1. Maintain the program, define national priorities more tightly and increase the program's funding level. The precise level of funding would be determined by the priority the government attaches to this area and the timeframe within which it wishes to achieve its goals.

2. Maintain the program in its present form and level of funding but tighten the criteria so as to prevent it from being used for normal programming and focus it more narrowly on national priorities.

DISASTER FINANCIAL ASSISTANCE ARRANGEMENTS
Emergency Planning Canada

OBJECTIVES

The objective of this program is to provide financial assistance to respond to and recuperate from major disasters where assistance is requested by a province, so that the cost of dealing with them does not place an undue burden on the provincial economy, or in situations where aspects of an emergency clearly fall within federal jurisdiction.

AUTHORITY

The Disaster Financial Assistance arrangements are administered by Emergency Planning Canada under guidelines approved by Cabinet.

DESCRIPTION

The costs of responding to and recuperating from a major emergency are frequently high. Casualties must be cared for and transported to hospital. Emergency food, clothing and shelter must be provided to those in need. Private properties must be repaired and public works restored to their pre-disaster condition. Debris and wreckage must be cleared away. Each of these requirements costs money and when all bills are added up, expenditures can run into the millions.

The initial responsibility for handling emergencies normally rests with those directly affected in the first instance (i.e. individual Canadians), but few emergencies can be effectively managed with private resources alone. Where governmental action is required, the responsibility normally passes first to the municipality affected, then to the province, then to the federal government. Since most emergencies can be handled with resources available at the provincial level, the burden of most disaster-related expenditures falls upon the provinces.

Since 1970, under the Disaster Financial Assistance Arrangements, the federal government has provided financial assistance to provincial governments in situations where the cost of dealing with a disaster would place an undue burden on the provincial economy. This program is administered by Emergency Planning Canada (EPC) through its regional offices and its national headquarters in Ottawa. The assistance

takes the form of grants to the provinces and territories to reimburse a portion of the assistance they provide.

Federal financial assistance is subject to pre-established guidelines and applies to three broad phases of disasters:

a. the immediate disaster period for which eligible costs may include rescue, transport, emergency health arrangements and emergency feeding, clothing and transportation of persons, shelter and feeding for livestock, measures to reduce the extent of damage, emergency provision of essential community services, equipment, material and labour for protective works and individual protection and that of publicly owned institutions and utilities, provision of emergency medical care to casualties of the disaster or resulting epidemic, special security measures, special communications facilities, emergency control headquarters, and special registration and inquiry services;

b. post-disaster assistance for individuals for which eligible costs may include restoration or replacement of or repairs to normally occupied dwellings used entirely for living accommodation or partly for living accommodation and the earning of livelihood; restoration replacement or repairs to chattels, furnishings, clothing of an essential nature; assistance in restoration of small businesses where the owner's livelihood has been destroyed; and costs of damage inspection and appraisal and administrative assistance excluding those incurred by permanent staff of government departments; and

c. post-disaster assistance in the public sector for which eligible costs may include clearance of debris and wreckage; protective health and sanitation facilities; repairs to pre-disaster condition of streets, roads, bridges, wharfs and docks; repairs to dykes, levees, and drainage facilities; repairs to public buildings and their related equipment; repairs to publicly-owned sewer and water facilities; and costs of inspection and appraisal.

Categories of Eligible Costs

The following are not eligible for cost-sharing: projects designed to reduce vulnerability in the event of recurrence of a disaster or to assist the post-disaster economy of an area or community as these are part of normal intergovernmental arrangements; post-disaster assistance by government to large businesses and industry whose continued operation is vital to the economy of a community, though there can be exceptions.

Eligible costs mean net incurred provincial expenditures eligible for sharing. Not considered eligible costs are:

a. any damage for which costs could be recovered through insurance or by law;
b. costs for which provisions are made in whole or in part under any other government program;
c. damages to property or facilities for which assistance was previously made available to prevent such damage;
d. damages which are an ordinary or normal risk of trade, calling or enterprise;
e. costs incurred for the restoration or rehabilitation which cannot be considered essential to the restoration of an individual to his home or livelihood or the reconstruction of essential community services;
f. costs incurred for the restoration of property owned by large businesses and industries;
g. costs which can be considered normal operating expenses of the government or agency concerned, including maintenance budgets; and
h. provincial retail and similar taxes.

Description of Arrangements

"Eligible costs" refer to expenditures incurred by a province in responding to a disaster in accordance with the federal guidelines. There must be a joint appraisal of private and public sector damages. Submission of provincial requests for assistance must be certified by the provincial auditor. DSS Audit Services Bureau is tasked with the federal audit.

The definition of financial hardship on a province is implied in the established cost-sharing formula as follows:

Per Capita Eligible Cost	Federal Share	Provincial Share
$0 to $1	0%	100%
$1 to $3	50%	50%
$3 to $5	75%	25%
$5 plus	90%	10%

Payments And Funding

Because of the nonrecurring nature of such assistance and each case being a special one, no funds are budgeted in advance. Individual submissions are made to Treasury Board and the assistance takes the form of ex gratia payments.

EXPENDITURES

	83/84	84/85
Value by province		
British Columbia	$1,537,970	$2,328,760
Alberta	NIL	NIL
Northwest Territories	NIL	46,278
Yukon Territory	NIL	NIL
Saskatchewan	NIL	NIL
Manitoba	2,646,740	623,864
Ontario	NIL	NIL
Quebec	NIL	NIL
New Brunswick	NIL	NIL
Nova Scotia	NIL	NIL
Prince Edward Island	1,340,290	NIL
Newfoundland	NIL	3,250,000
TOTAL	$5,525,000	$6,248,902

In total, the federal government has contributed approximately $90 million since the establishment of this program in 1970.

There are no specific person-years assigned to this program. EPC staff assume responsibility for its administration as the need arises.

BENEFICIARIES

Individuals, municipalities and provincial governments who have suffered losses through disasters.

OBSERVATIONS

This is the only federal program to deal with major disasters and to provide assistance. It appears to be tightly administered while retaining some flexibility to cope with the "extraordinary" and very specific cases. In keeping with the nature of the program, no funds are budgeted on an annual basis. Each request is treated as an individual case and Treasury Board has to approve the request and authorize an ex gratia payment. In the view of the study team, this program therefore appears to be sound from an administrative point of view.

RECORD OF CONSULTATION

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